First Reading Copy

DOWNTOWN
REDEVELOPMENT AGREEMENT
(Riverwalk)

DATE: ____, 2017.

PARTIES: **TOWN OF CASTLE ROCK**, a home rule municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 ("Town").

CASTLE ROCK DOWNTOWN DEVELOPMENT AUTHORITY, a downtown development authority duly organized and existing under Part 8 of Article 25, Title 31, C.R.S., 18 South Wilcox Street, Suite 202, Castle Rock, Colorado 80104 ("DDA").

CD WILCOX, LLC, a Colorado limited liability company, 15710 W. Colfax Avenue, Suite 202, Golden, Colorado 80401-7405 ("Owner").

RECITALS:

A. Owner proposes to redevelop certain land within the core area of downtown Castle Rock (the "**Downtown")** into a mixed use (retail/office/residential) project as further described in the body of this Agreement and in the attached ***Exhibit 1*** (the **"Project"**). The Project furthers several of the core priorities for Downtown redevelopment outlined in the 2008 Plan of Development for the DDA, including more intensive physical development at an urban scale encompassing employment, retail, restaurants, entertainment and additional options for residing in the Downtown.

B. The Town, DDA and their consultants have reviewed financial projections for the Project and have determined that, absent the financial assistance authorized by this Agreement, it is not feasible for the Project to be developed at the scale proposed. This determination is based on the acquisition cost of the real property, site redevelopment costs, the greater investment attendant with a more intensive development, and the commercial and residential rents that the Downtown sub-area market can support, as well as other factors described in the attached ***Exhibit 2***.

C. The Project will generate additional sales and property taxes, a portion of which will be utilized to mitigate the disparity between the development cost of the Project and a commercially reasonable return on investment in the Project. Development of the Project will likely serve to accelerate other development in the Downtown, which in turn will enhance sales and property tax increment within the DDA, thereby allowing additional investment by the Town and DDA in other projects within the Downtown.

D. Owner has committed to enhanced architectural and design elements in the Project that will add to the appeal and interest in the Downtown experience for the public at large.

E. The Town and DDA are parties to "Intergovernmental Agreement Concerning the Selection and Funding of Downtown Development and Redevelopment Projects and Programs" dated May 5, 2015 ("**DDA IGA**"). The Project has been approved by the Town and DDA as an eligible "DDA Project" suitable for support with "DDA Increment" as those terms are defined in the DDA IGA.

THEREFORE, in reliance on the matters set forth above and in consideration of the mutual promises contained in this Agreement, the Parties agree and covenant as follows:

COVENANTS:

ARTICLE I
DEFINITIONS

1.01 <u>Defined Terms.</u> The following words when capitalized in the text shall have the meanings indicated below.

Agreement: this Downtown Redevelopment Agreement (Riverwalk).

Bond: any note, bond, loan agreement, certificate or other instrument which is payable from revenues of the Town deposited in a special fund pursuant to 31-25-807(3)(a)(II), C.R.S., and which evidences a loan made to the Town, but excluding a Contractual Obligation.

Code: the Castle Rock Municipal Code, as amended.

Contractual Obligation: means any agreement, including this Agreement, entered into by the Town which obligates the Town to pay monies deposited in a special fund pursuant to 31-25-807(3)(a)(II), C.R.S., but excluding a Bond. This Agreement creates a Contractual Obligation.

Credit PIF: means the public improvement fee in the amount of 2.7% on all Taxable Transactions, as set forth in the Credit PIF Covenant, which will be (i) collected in accordance with the terms of the Credit PIF Covenant, and (ii) accounted for and spent in accordance with this Agreement.

Credit PIF Covenant: means a declaration of covenants by Owner imposing and implementing the Credit PIF within the Property.

Credit PIF Revenue: means the revenue derived from the imposition of the Credit PIF in accordance with the Credit PIF Covenant, the Sales Tax Credit Ordinance and this Agreement.

Disqualified Retail Sales: sales of any item which is: (i) not allowed under the Town Regulations or state or federal law, or (ii) generated from sexually oriented businesses, pawn shops, liquor stores, tobacco or tobacco related stores, or the sale of marijuana accessories.

Douglas County Agreement: the separate agreement Intergovernmental Agreement dated _______________, 2017 between the Town and Douglas County, Colorado under which the Town will acquire certain real property from Douglas County necessary for development of the Project.

Eligible Improvements: means any and all construction costs incurred by Owner to develop and design the Project, or the reimbursement of such costs incurred by Owner.

Fee and Tax Waiver Cap: $4,000,000, which is the limit on the combined waiver as provided in 3.01 of: (i) Project Development Fees which absent such waiver would be imposed by the Town under the Town Regulations as a condition to issuance of a building permit for the Project, and (ii) Town Use Tax, which absent such waiver would be imposed on building materials for the Project in accordance with Town Regulations.

Franchise Agreement: the agreement between the Town and Intermountain Rural Electric Association ("IREA") granting IREA the right to locate and maintain infrastructure within public rights-of-way as approved by Town Ordinance No. 2010-39 and amended by Ordinance No. 2017-__.

Franchise Credits: the right of the Town to fund the relocation of infrastructure owned and maintained by the IREA using certain "credits" which accrue to the Town under Section 4 of the Franchise Agreement.

Incremental Revenue: means the Credit PIF Revenue together with the Tax Increment Payments paid to Owner under Section 5.01.

Incremental Revenue Cap: $11,500,000, which is the limit on the aggregate Incremental Revenue that Owner may collect under Articles IV and V.

Material Deviation: means a modification to the Project consisting of any of the following: (i) change in the number of buildings or number of stories of any building, (ii) change in the step back height, (iii) reduction in residential space by 9,000 square feet or more, (iv) reduction in office space by 1,000 square feet or more, (v) reduction in retail/food and beverage space by 500 square feet or more, or (vi) a modification to the site development plan as approved by the Town Design Review Board on April 26, 2017.

Net DDA Property Tax Revenue: the total annual *ad valorem* property tax increment received by the Town with respect to property included within the 2008 Plan of Development for the DDA pursuant to §31-25-807(3)(a)(II), C.R.S. in a calendar year, less that portion of such funds which must be paid out or held in reserve within such calendar year to meet the requirements of any Bond under the terms of the applicable debt instrument(s) constituting the Bond.

North Building: means the 5-story building comprising of approximately 85,000 square feet of residential space, approximately 0 square feet of office space, and approximately 7,500 square feet of Retail space.

Owner: CD-Wilcox, LLC and any single entity (i) to which all of CD-Wilcox, LLC's then existing rights and obligations under this Agreement are assigned and (ii) such entity expressly assumes all of CD-Wilcox LLC's then existing obligations under this Agreement, pursuant to a written agreement recorded in the Douglas County, Colorado Clerk and Recorder office. At no time shall more than one entity be subject to the rights and obligations as Owner under this Agreement.

PIF Collection Agent: means an entity retained by Owner, as declarant under the Credit PIF Covenant, for the purpose of collecting, accounting for, and disbursing the Credit PIF Revenue in accordance with the Credit PIF Covenant.

PIF Collection Agreement: means an agreement providing for the collection and remittance of the Credit PIF Revenue, between the Owner and the PIF Collection Agent.

Project: the North Building and South Building, comprising in total approximately 170,000 square feet of residential space or 228 residential apartments, 30,000 square feet of office space, and 11,000 square feet of retail/food and beverage space, to be constructed on the Property. Key Project elements and Project features are described in the attached ***Exhibit 1***.

Project Approvals: the development and construction permits and approvals required under the Town Regulations for the Project, inclusive of applicable construction permits and building permits.

Project Development Fees: the fees and charges imposed by the Town under the Town Regulations as a condition to issuance of a building permit for the Project, which are categorized on the attached ***Exhibit 3***.

Property: the legal description of the real property upon which the Project is to be developed, more particularly described in the attached ***Exhibit 4.***

Property Tax: the *per annum ad valorem* real property tax on the Property (inclusive of the improvements constituting the Project) paid by Owner, as adjusted for any protest, appeal, rebate or other adjustment under law.

Property Tax Base: the Property Tax assessed for tax year 2017, payable and collected in 2018.

Property Tax Increment: the *per annum* Property Tax in excess of the Property Tax Base.

Real Property Agreement: the separate "Agreement for Transfer of Real Property" dated _____________, 2017 between the Town, and Owner addressing the acquisition by Owner of certain real property interests necessary for development of the Project, as well as construction by Owner of certain access improvements for the benefit of Douglas County.

Retail: means businesses selling goods and services to the general public that are subject to the Town's Sales Tax.

Sales Tax Credit: means the credit against the Town's Sales Tax in an amount equal to the Credit PIF imposed and collected on Taxable Transactions, in the amount of 2.7%, as implemented pursuant to the Sales Tax Credit Ordinance.

Sales Tax Credit Ordinance: means Ordinance 2017-__ adopted by the Town Council of the Town approving the Sales Tax Credit.

South Building: means the 6-story building comprising of approximately 85,000 square feet of residential space, approximately 30,000 square feet of office space, and approximately 3,500 square feet of Retail space.

Tax Increment Payment: means the reimbursement from Town to Owner of 75% of the Property Tax Increment.

Taxable Transactions: means the sale or provision of goods within the Project that are subject to the Town's Sales Tax, as amended from time to time, but excluding Disqualified Retail Sales.

Town Regulations: the Town Charter, ordinances, resolutions, rules and regulations of the Town, including the Code, and other provisions of all zoning, subdivision and building codes, as the same may be amended from time to time.

Town Sales Tax: the tax at the rate of 3.6% (out of the total Town sales tax rate of 4%) on retail sales transactions imposed under the Code and subject to the terms and conditions of the Code.

Town Use Tax: the tax imposed and collected by the Town on construction and building materials (at the rate of 4%). The Town Use Tax does not encompass the 1% use tax imposed by Douglas County.

Certain other terms are defined in the text of the Agreement and shall have the meaning indicated.

1.02 Cross-reference. Any reference to a section or article number, without further description, shall mean such section or article in the Agreement.

ARTICLE II
APPLICATION AND EFFECT

2.01 Applicability. All entitlements and benefits accruing to Owner under this Agreement are exclusive to Owner, as Owner is defined in 1.01. Other than an Owner, no Property ground lessor, condominium owner, or Project tenant, business or occupant shall have any claim to the financial assistance under this Article II or any other provision of this Agreement. Accordingly, Owner shall indemnify and defend the Town and DDA against any claims to amounts paid to Owner asserted by any third parties. Such indemnification shall extend to the reasonable attorney's fees incurred by the Town and DDA.

2.02 Project Qualifications.

A. Owner shall construct the Project in substantial compliance with the Project description and the Project enhancements set forth in ***Exhibit 1*** ("**Project Features**"). Owner shall demonstrate compliance with the requirements for Project Features at the time of issuance of each building permit for the North Building and the South Building. Owner may incorporate any modification to the Project Features mandated by the Design Review Board (Chapter 17.42 of Code) without the need for an amendment to this Agreement.

B. Concurrently with the application for a building permit for the North Building or the South Building, Owner shall submit to Town an itemization of the Project Features incorporated into each building. Such submission shall contain supporting documentation as Town reasonably determines necessary to verify the inclusion of the Project Features.

C. Any Material Deviation from the Project Features shall require the approval of the Town and DDA in addition to any approvals expressly required under the Code, and shall be requested only in the event of material unavailability or the infeasibility of construction due to conditions unknown to the Parties at the time of execution of this Agreement. Approval of such modifications shall require the written concurrence of the Town Manager and DDA Executive Director. Owner may appeal an adverse decision of the Town Manager to the Town Council, whose determination shall be final and binding.

D. The Project design and construction shall include a grease trap complying with all applicable Town Regulations, including architectural plans that will enable a restaurant tenant to install a cooking hood to support at least one commercial restaurant within the Project.

E. The Project must include vehicular access to the southeast entrance of the Douglas County parking facility, in a location approved by, and in accordance with any terms and conditions imposed under the Real Property Agreement and the Douglas County Agreement.

2.03 Compliance Benchmarks.

A. All entitlements granted the Project and/or Owner under this Agreement are conditioned on issuance by the Town of: (i) a building permit for the South Building not later than

February 1, 2018 ("**Permit Benchmark**"), and (ii) a "core and shell" certificate of occupancy for the South Building ("**Building CO**") not later than June 30, 2020 ("**CO Benchmark**"). Town shall not unreasonably delay or withhold the issuance of such permits.

B. If the Permit Benchmark is not met, then at the option of the Town, this Agreement may be terminated, in which event it shall thereafter have no force or effect. In the event the CO Benchmark is not met, then at the option of the Town, this Agreement may be terminated, in which event it shall thereafter have no force or effect. However, alternatively, Town may extend either the Permit Benchmark or CO Benchmark. Any action taken by the Town under this Section shall be effected by written notice to the Owner by the Town Manager, and shall become effective and irrevocable as of the date of the notice. The cure rights afforded Owner under section 6.06 shall not be applicable to a notice terminating this Agreement given pursuant to this Section 2.03.

2.04 Project Maintenance. Owner shall maintain the Project including the Project Features, and other elements of the Project in a fully functional and attractive condition during the term of this Agreement. Owner shall promptly make necessary repairs to the Project.

2.05 Town Regulations. Town Regulations shall apply to the development and construction of the Project and the use and occupancy of the Project. All necessary Project Approvals shall be obtained and maintained in good standing.

2.06 Not Exclusive. This Agreement does not restrict the Town or DDA from extending financial assistance incentives to any other project or enterprise, including projects that may contain similar attributes to those of the Project.

2.07 Contingency. This Agreement is conditioned on the execution and performance of all parties under the Real Property Agreement and the Douglas County Agreement.

ARTICLE III
REIMBURSEMENT OF PROJECT COSTS

3.01 Fee and Tax Waiver. Provided Owner develops the Project in accordance with this Agreement, Town shall waive collection from Owner of Project Development Fees and Use Tax otherwise imposed on the Project "Fee and Tax Waiver," currently estimated at $3,200,000, as set forth in ***Exhibit 3***. Provided however, Owner will be responsible for the payment of any Project Development Fees and Town Use Tax, which in the aggregate exceed the Fee and Tax Waiver Cap. Town and DDA have separately provided a mechanism for the Town to recover a portion of the Fee and Tax Waiver from available DDA revenues.

3.02 IREA Relocation Expenses. Town shall cause up to $350,000 in Franchise Credits to be applied by IREA toward relocation by IREA of existing IREA infrastructure necessitated by the Project as more particularly described in the attached ***Exhibit 5***. Any such relocation expense in excess of $350,000 shall be borne by Owner. The utilization of such Franchise Credits does not affect the amount of the Incremental Revenue Cap.

ARTICLE IV
CREDIT PIF/SALES TAX CREDIT

4.01 **Credit PIF**. Owner agrees to impose and collect the Credit PIF in accordance with the Credit PIF Covenant, the Sales Tax Credit Ordinance and this Agreement. Owner shall terminate the Credit PIF upon the earlier to occur of (a) when the Incremental Revenue Cap is reached, or (b) December 31, 2042.

4.02 **PIF Collection Agreement.** Owner shall engage a PIF Collection Agent to collect, disburse, and account for the Credit PIF Revenue pursuant to a PIF Collection Agreement. The Town shall have the right to review the PIF Collection Agreement to ensure compliance with the terms and provisions of this Agreement.

4.03 **Sales Tax Credit Ordinance**. The Town shall adopt the Sales Tax Credit Ordinance to implement the Sales Tax Credit in substantially the form set forth in ***Exhibit 6***. Provided that the Ordinance approving this Agreement and the Sales Tax Credit Ordinance both take effect, the Town will authorize, grant and implement the Sales Tax Credit pursuant to the Sales Tax Credit Ordinance in order for the Credit PIF to be collected for payment and reimbursement of Eligible Improvements in accordance with the Credit PIF Covenant and this Agreement. Except as hereinafter provided, the Sales Tax Credit shall terminate upon the earlier of (a) when the Incremental Revenue Cap is reached, or (b) December 31, 2042.

4.04 **Post Credit PIF Period**. Notwithstanding any language in any agreement to the contrary, if the Town determines that termination of the Sales Tax Credit in accordance with the terms and provisions of this Agreement may be precluded by or require a refund of the Sales Tax under Article X, Section 20 of the Colorado Constitution, the Town may elect to continue the Sales Tax Credit and submit a written request to Owner to continue to impose the Credit PIF. Upon receipt of such request, the Credit PIF shall remain in full force and effect and the full amount derived from imposition of the Credit PIF that is offset by the Town’s Sales Tax Credit shall be paid to the Town as a substitute for the Sales Tax revenue it is unable to collect.

4.05 **Extent of Sales Tax Credit**. In adopting the Sales Tax Credit Ordinance, the Town is agreeing that it will grant a credit in the amount of 2.7% against the Town's Sales Tax collected on Taxable Transactions within the Property only to the extent that the Credit PIF is imposed and collected.

4.06 **Change in Sales Tax**. Nothing in this Agreement shall impair the right of the Town Council to modify the imposition of sales tax through the CRMC, including the reduction in the rate of taxation or adding exemptions from taxation, provided such modifications shall not have retroactive effect.

ARTICLE V
PROPERTY TAX REIMBURSEMENT

5.01 <u>Property Tax Reimbursement</u>.

A. Annually, beginning with tax year 2017, payable and collected in 2018, Town shall reimburse Owner for 75% of the Property Tax Increment ("**Tax Increment Payment**"), provided that payment of such Tax Increment Payment shall be subject to the further limitation of subsection B. The funds disbursed to Owner as Tax Increment Payments are Incremental Revenue. The annual Tax Increment Payment shall be made to Owner within 60 days of the Town's receipt of the Property Tax Increment from Douglas County, Colorado. The Tax Increment Payments shall expire on the first to occur of the following two events: (i) the Tax Payment for tax year 2037 payable in 2038 is made, or (ii) the Incremental Revenue Cap is reached.

B. In the event the Net DDA Property Tax Revenue in any calendar year is less than the sum of (i) the Tax Increment Payment and (ii) all other pledges of property tax increment by the Town and DDA under any other Contractual Obligations in effect at that time ((i) and (ii) collectively, "DDA Tax Increment Pledge"), then this subsection B shall be operative. In that event, the Tax Increment Payment shall be made for that calendar year in the percentage derived by dividing the Net DDA Property Tax Revenue by the DDA Tax Increment Pledge. To illustrate, if in a calendar year the DDA Tax Increment Pledge is $100,000, but the Net DDA Property Tax Revenue is $70,000, the Tax Increment Payment to Owner shall be 70% of the amount otherwise required under this Agreement (the "**Adjusted Tax Increment Payment**").

C. The difference between the financially unconstrained Tax Increment Payment and the Adjusted Tax Increment Payment shall carry forward and shall be paid to Owner, in whole or in part, (proportionate to other deferred DDA Tax Increment Pledges) in subsequent year(s) when there is available Net DDA Property Tax Revenue. Payment of such deferred DDA Tax Increment Pledge shall be in addition to the regular Tax Increment Payment due in that year. However, such carry-forward obligation shall expire when the right to Tax Increment Payments lapses under Subsection A, above.

5.02 <u>Subordination.</u> The Town's obligation to make the Tax Increment Payment is subordinate to the Town's obligation to pay any current or future Bonds. The Bonds outstanding as of the date of this Agreement are listed on the attached ***Exhibit 7***. Owner hereby agrees to execute and deliver within fifteen (15) days of request from the Town, an agreement and acknowledgement that: (i) such pledge, security interest in, or lien on the Tax Increment Payment is subordinate to the pledge, security interest or lien on the Incremental Revenues contained in any Bond document, and (ii) the lender under any Bond is a third-party beneficiary of this Agreement and acknowledgement.

5.03 <u>Damage or Destruction</u>. In the event the Project suffers a catastrophic loss or damage such that it is not habitable, the Tax Increment Payments shall be suspended until such time as the Project is rebuilt or repaired to a functional condition. Such suspension in Tax Increment Payments shall not extend the dates of lapse of the Tax Increment Payments as provided in 5.01.A. Owner shall at all times maintain casualty insurance coverage on the Project sufficient to support the repair or reconstruction of the Project in the event of such loss or damage

ARTICLE VI
OTHER PROVISIONS

6.01 Financial Limitation. Irrespective of any other provision in this Agreement, in no event shall the financial entitlements accruing to Owner under this Agreement exceed (i) the Fee and Tax Waiver Cap, (ii) the Incremental Revenue Cap, or (iii) $350,000 in Franchise Credits under 3.02, all of which are distinct and separate limitations.

6.02 Books and Accounts; Financial Statements. With respect to the Credit PIF Revenue, Owner shall keep proper and current itemized records, books, and accounts in which complete and accurate entries will be made of the receipt and use of all amounts of the Credit PIF Revenue received from any and all sources and such other calculations required by this Agreement.

No later than sixty (60) days after the end of each fiscal year, Owner shall prepare, or cause to be prepared, and delivered to the Town, a report setting forth the amount of Credit PIF Revenues collected by the PIF Collection Agent during the preceding fiscal year and the total amount of Credit PIF Revenue collected by the PIF Collection Agent from the Effective Date (as defined in 6.04) through the end of the preceding fiscal year.

All books, records and reports (except those allowed or required by applicable law to be kept confidential) in the possession of the Town, Owner and DDA, including, without limitation, those relating to the Incremental Pledged Revenue or Eligible Improvements, will at all reasonable times be open to inspection by such accountants or other agents as the respective Parties may from time to time designate.

6.03 Representations and Warranties.

A. Representations and Warranties by Owner. Owner represents and warrants as follows:

(1) Owner is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Colorado and in good standing and authorized to do business in the State of Colorado and has the power and the authority to enter into and perform in a timely manner its obligations under this Agreement.

(2) The execution and delivery of this Agreement have been duly and validly authorized by all necessary action to make this Agreement and are valid and binding upon Owner.

(3) The execution and delivery of this Agreement will not (i) conflict with or contravene any law, order, rule or regulation applicable to Owner or to Owner's governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which Owner is a

party or by which it may be bound or affected, or (iii) permit any party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of Owner.

(4) Owner knows of no litigation, proceeding, initiative, referendum, or investigation or threat or any of the same contesting the powers of Owner or any of its principals or officials with respect to this Agreement that has not been disclosed in writing to the other Parties.

(5) This Agreement constitutes a valid and binding obligation of Owner, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

B. Representations and Warranties by the Town. The Town represents and warrants as follows:

(1) The Town is a body corporate and politic and a home rule municipality of the State of Colorado, and has the power to enter into and has taken all actions to date required to authorize this Agreement and to carry out its obligations under this Agreement.

(2) The Town knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of the Town or its officials with respect to this Agreement that has not been disclosed in writing to the Parties.

(3) The execution and delivery of this Agreement and the documents required hereunder and the consummation of the transactions contemplated by this Agreement will not: (i) conflict with or contravene any law, order, rule or regulation applicable to the Town or to its governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the Town is a party or by which it may be bound or affected, or (iii) permit any party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of the Town.

(4) This Agreement constitutes a valid and binding obligation of the Town, enforceable according to its terms, except to the extent limited by the subsequent exercise of its retained governmental powers, bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

6.04 Commencement, Term. The term of this Agreement shall commence upon the later to occur of ("**Effective Date**"): (a) the date that the Town Council ordinance approving this Agreement is final and no longer subject to referendum, or (b) the date that the Sales Tax Credit Ordinance is final and no longer subject to referendum.

6.05 Event of Default. Failure of the Town or Owner to perform any covenant, agreement, obligation or provision of this Agreement, shall constitute an event of default under this Agreement.

6.06 Default Notice. In the event a party alleges that the other is in default, the non-defaulting party shall first notify the defaulting party(ies) in writing of such default, and specify the exact nature of the default in such notice. The defaulting party shall have thirty (30) days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its remedies; or if the default is of a nature to require more than thirty (30) days to remedy, the defaulting party(ies) will have the time reasonably necessary to cure.

6.07 Remedies. Upon default of this Agreement and failure to timely cure, the non-defaulting party shall have the right to take whatever action at law or in equity appears necessary or desirable to enforce performance and compliance with this Agreement, or to collect the monies then due and thereafter to become due. However, in the event of a default without timely cure by Owner, the Town's sole remedy shall be to withhold prospective financial assistance under Article III which becomes due to Owner after the event of default until such time the event of default is actually cured.

6.08 TABOR. This Agreement and the financial commitments under 5.01 is made under the authority granted by the voters at the Castle Rock municipal election approving the DDA and funding on November 4, 2008 pursuant to Article X, Section 20 of the Colorado Constitution ("**Authorized Funds**"). No other funds of the Town and no funds of the DDA are pledged or encumbered under this Agreement to make the Tax Increment Payments. However, if the property tax portion of the Authorized Funds are insufficient in any year to support full payment of the Tax Increment Payment under 5.01, the Town may (but is not required to) budget and appropriate other Town funds sufficient to make the full payment of the Tax Increment Payment in that year.

6.09 Governing Law. This Agreement shall be governed and construed in accordance with Colorado law and Douglas County shall be the proper venue for the commencement of any claims in state court.

6.10 Amendment. Any and all changes to this Agreement, in order to be mutually effective and finding upon the parties and their successors, must be in writing.

6.11 Notice. The addresses of the parties to this Agreement are listed below. Any and all notices allowed or required to be given in accordance with this Agreement are deemed to have been given when delivered to the other parties or three (3) days following the date the same is deposited in the United States mail, registered or certified, postage prepaid, return receipt requested, addressed to the other parties at the addresses noted; or such address as is subsequently endorsed in writing, or in the event of transfer of the Property to the address of such grantee as indicated in the recorded instrument whereby such grantee acquired an interest in the Property.

Town: Town Attorney
Town of Castle Rock
100 N. Wilcox Street

Castle Rock, CO 80104

DDA: Castle Rock Downtown Development Authority
18 S. Wilcox Street
Castle Rock, CO 80104
Attn: ______________________

Owner: CD Wilcox, LLC
15710 W. Colfax Avenue, Suite 202
Golden, CO 80401-7405
Attn: _______________________

With copy to: Husch Blackwell, LLP
1700 Lincoln Street, Suite 4700
Denver, CO 80206
Attn: Kevin Kelley

6.12 **<u>No Third Party Beneficiaries.</u>** Except as otherwise provided in 3.05, it is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to Town and Owner, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than Town or Owner receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

6.13 **<u>Additional Documents</u>**. The parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

6.14 **<u>Waiver.</u>** A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

6.15 **<u>Entire Agreement</u>**. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written.

6.16 **<u>Recordation</u>**. This Agreement and any amendments thereto shall be recorded in the public records of Douglas County, Colorado.

(Remainder of page intentionally left blank)

TOWN:

ATTEST: **TOWN OF CASTLE ROCK**

______________________________	______________________________
Sally A. Misare, Town Clerk	Jennifer Green, Mayor
Approved as to form:	**Approved as to content:**
______________________________	______________________________
Robert J. Slentz, Town Attorney	David L. Corliss, Town Manager

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this ____ day of ____________________, 2017 by Sally A. Misare as Town Clerk and Jennifer Green as Mayor of the Town of the Town of Castle Rock, Colorado.

Witness my official hand and seal.
My commission expires: __________

[S E A L] ______________________________
Notary Public

DDA:

CASTLE ROCK DOWNTOWN
DEVELOPMENT AUTHORITY

By: ___________________________________

Its: ___________________________________

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this ____ day of ____________________, 2017 by _______________________ as ____________________ for the Castle Rock Downtown Development Authority.

Witness my official hand and seal.
My commission expires: __________

[S E A L] ______________________________
Notary Public

Approved as to form:

____
Corey Hoffman, General Counsel

OWNER:

CD WILCOX, LLC, a Colorado limited liability company

By: ______________________________________

Its: ______________________________________

STATE OF **)**
) ss.
COUNTY OF **)**

The foregoing instrument was acknowledged before me this ____ day of ___________________, 2017 _________________ as _______________________ for CD Wilcox, LLC, a Colorado limited liability company.

Witness my official hand and seal.
My commission expires: __________

[S E A L] ______________________________
Notary Public

EXHIBIT LIST

EXHIBIT 1
PROJECT DESCRIPTION AND FEATURES

Project Name: Riverwalk North and South
Developer: Confluence Companies
Location: 113 Wilcox St. (Riverwalk South) and 215 Wilcox St. (Riverwalk North), Castle Rock, CO 80104

Project Use by SF: 170,000 SF of residential space for 228 apartment units, 30,000 SF of office and 11,000 SF of retail space – floor plan included below

Project Description:

The proposed re-development proposes redevelopment of two sites in and adjacent to the Downtown Core, consistent with the DDA Plan of Development bringing retail, office and residential space to Downtown Castle Rock. The of this project is to add to the vibrancy in Downtown by bringing commercial space to facilitate and allow for desired uses in Downtown including restaurant space, office space and residential space.

The Riverwalk North building will be a 5-story mixed use building which will be comprised of largely residential space and will include ground floor retail, and multiple floors of parking. The building will include a roof top pool, a club house and ground floor restaurant space over-looking Sellar's Gulch. This location will include improvement to the Town owned alleyway to north of project site, connecting the County parking garage to Wilcox St., and improvements to the County owned alleyway to the North and West of the project site connecting the County parking garage to Third Street.

The Riverwalk South building will be a 6 story mixed use building which will be comprised of largely residential space and will include ground floor retail, office space and multiple floors of parking. The building will include a work out center and a dog/bike washing station.

This catalytic project extends the window shopping environment from the Downtown Core South to Town Hall, connecting Festival Park with other recent mixed use development while increasing density and a customer base for Downtown small businesses. The premier for-rent residential space will have views of the Rock, Pikes Peak, Sellars Gulch and overlook Festival Park and will deliver much needed for rent space to the community for young professionals, small families and empty nesters who desire to live in a walkable, vibrant place.

Project Enhancements:

The façade will be of timeless design, with quality construction materials incorporating elements that evoke both historic and modern architectural and building elements so as to "fit" in Downtown Castle Rock while being interesting and new. The façade is depicted in the included rendering as approved by the Design Review Board and Downtown Development Authority.

The building(s) must include a grease trap complying with all applicable codes, including architectural plans that will enable a restaurant tenant to install a cooking hood to support a commercial restaurant on the first floor.

The Project will provide 328 parking spaces on multiple floors of parking in both buildings. This is not a requirement of building code but was an enhancement required for this project.

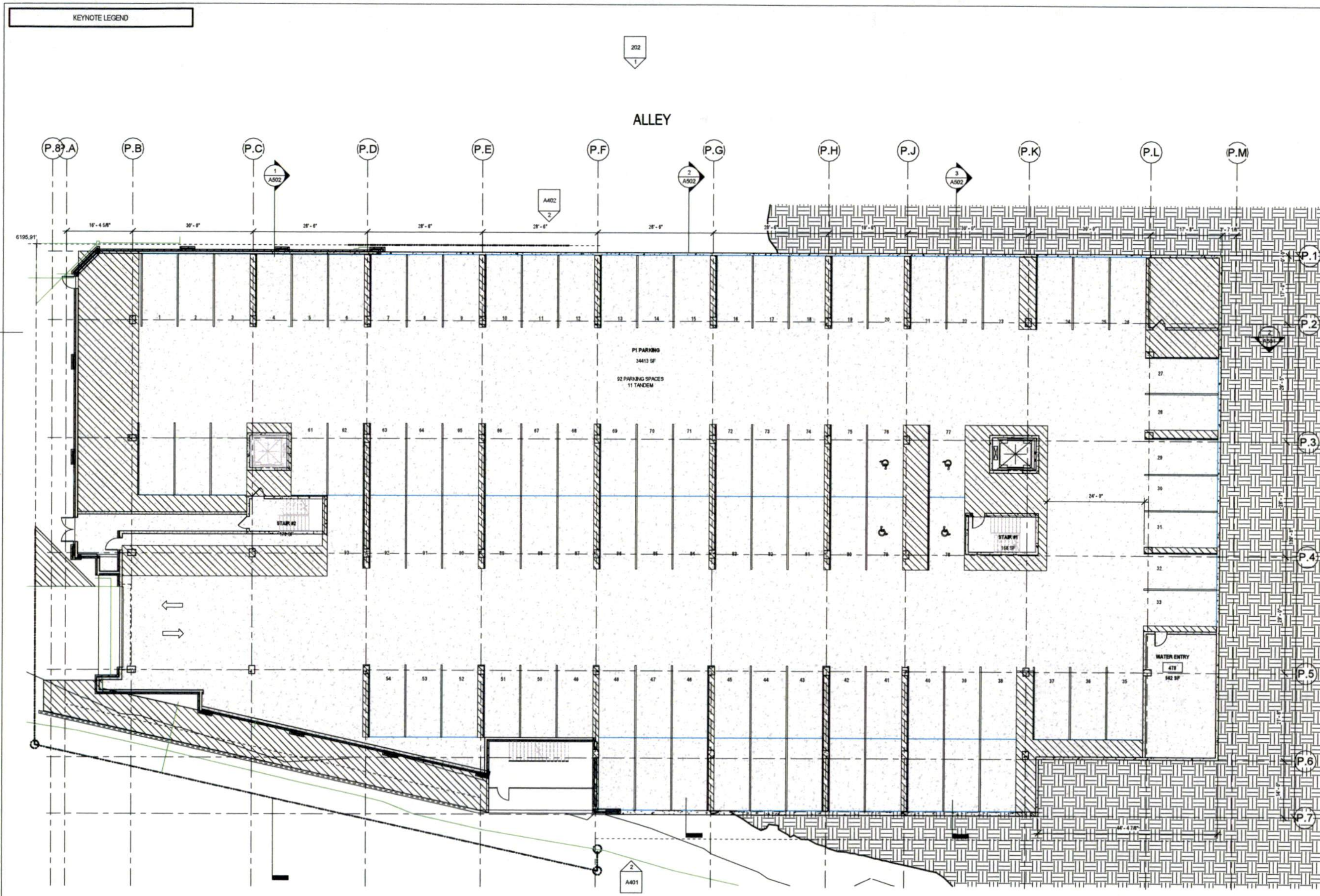
The Project will have a limited building setback (< 5 feet) comparable with historic building setbacks and contributing to a window shopping look and feel and eliminating strip mall design. This places parking in the rear of the building out of sight and places focal priority on building architecture. The building will step back floors 3 and above giving up leasable space but improving the look and feel of the building for the pedestrian.

Building Elevations, Architectural Features and Floor Plans:

Elevations and floor plans as approved by the Design Review Board and Downtown Development Authority Board. If a change requires approval by the Design Review Board, that change must also be approved by the Downtown Development Authority.


CRAINE ARCHITECTURE


CRAINE ARCHITECTURE



1 P1 BUILDING PLAN
3/32" = 1'-0"

CRAINE ARCHITECTURE

CONFLUENCE
companies

RIVERWALK

RIVERWALK NORTH

SECOND AND WILCOX
CASTLE ROCK, CO

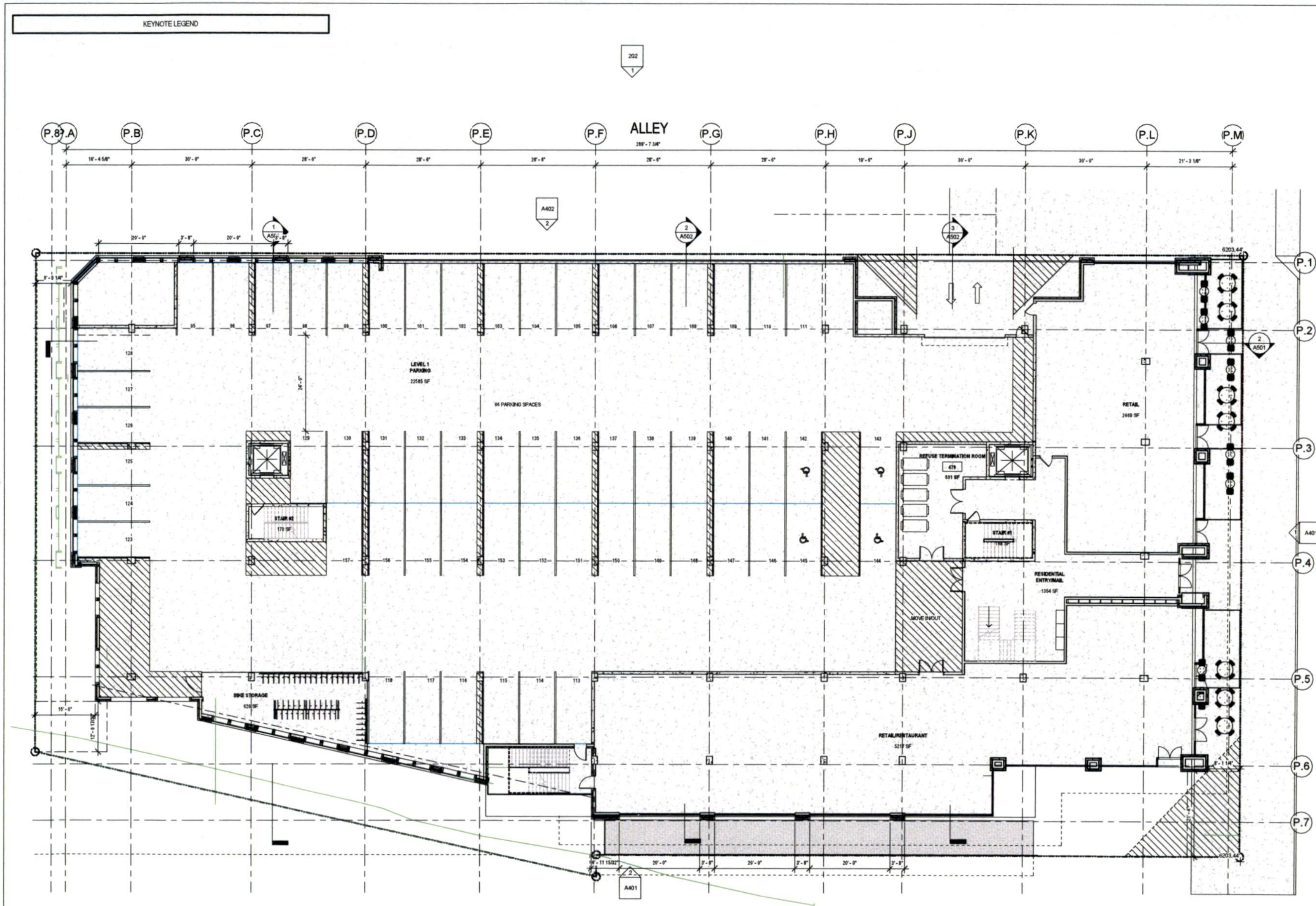
ISSUE:

Date:	Issue:	Rev.

CA PROJECT NO: CA 15-028

LEVEL P1 BUILDING PLAN

A201



1 LEVEL 1 BUILDING PLAN
3/32" = 1'-0"

CRAINE ARCHITECTURE

CONFLUENCE
companies

RIVERWALK

RIVERWALK NORTH

SECOND AND WILCOX
CASTLE ROCK, CO

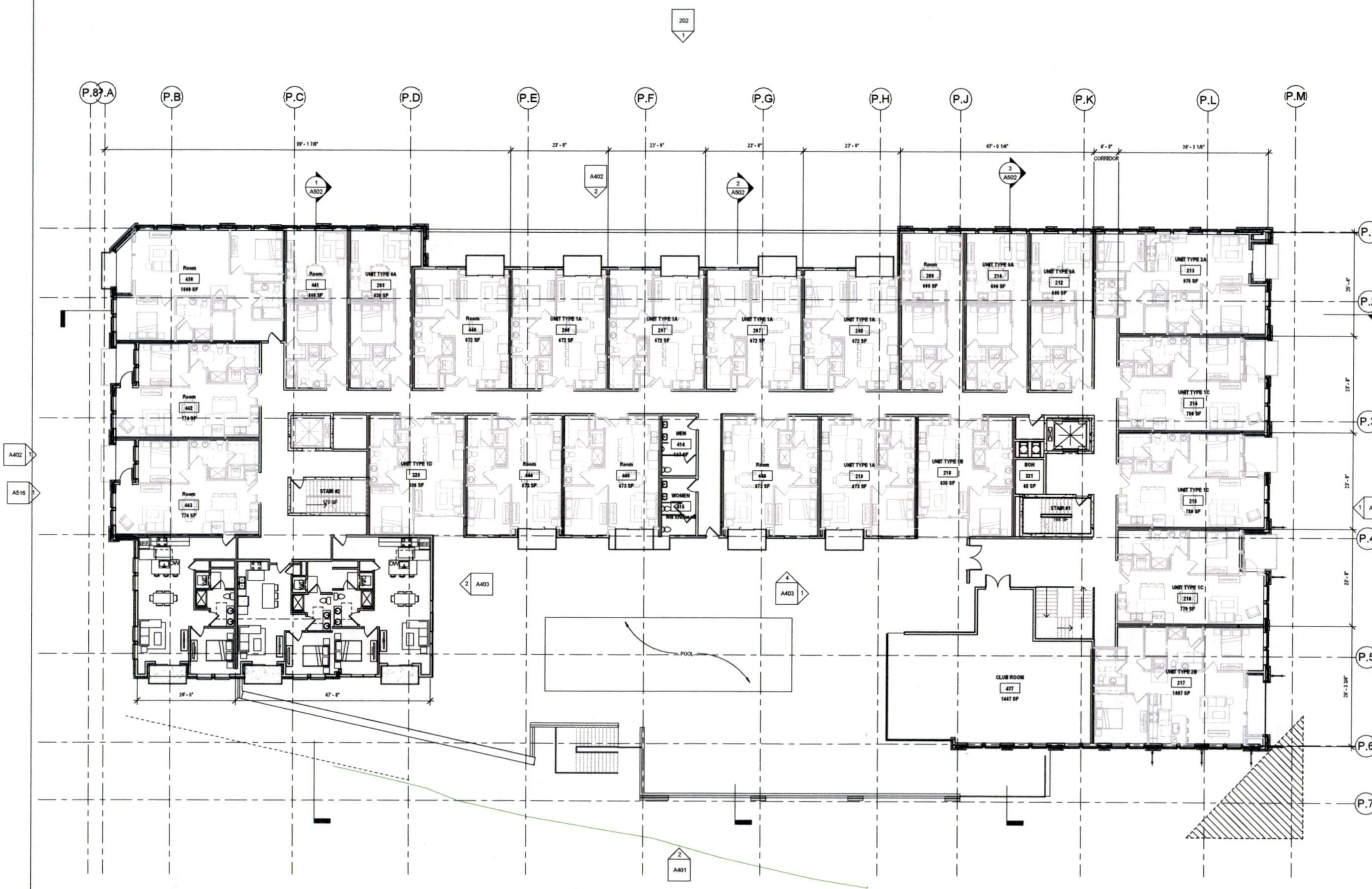
ISSUE:

Date:	Issue:	Rev.

CA PROJECT NO: CA 15-026

LEVEL 1 BUILDING PLAN

A202



1 LEVEL 2 BUILDING PLAN
3/32" = 1'-0"

CRAINE ARCHITECTURE

CONFLUENCE
companies

RIVERWALK

RIVERWALK NORTH

SECOND AND WILCOX
CASTLE ROCK, CO

ISSUE:

Date:	Issue:	Rev.:

CA PROJECT NO: CA 15-026

LEVEL 2 BUILDING PLAN

A203

1 LEVEL 3 BUILDING PLAN
3/32" = 1'-0"

CRAINE ARCHITECTURE

CONFLUENCE companies

RIVERWALK

RIVERWALK NORTH

SECOND AND WILCOX
CASTLE ROCK, CO

ISSUE:

Date:	Issue:	Rev.:

CA PROJECT NO: CA 15-026

LEVEL 3 BUILDING PLAN

A204

LEVEL 4 BUILDING PLAN
3/32" = 1'-0"

CRAINE ARCHITECTURE

CONFLUENCE companies

RIVERWALK

RIVERWALK NORTH

SECOND AND WILCOX
CASTLE ROCK, CO

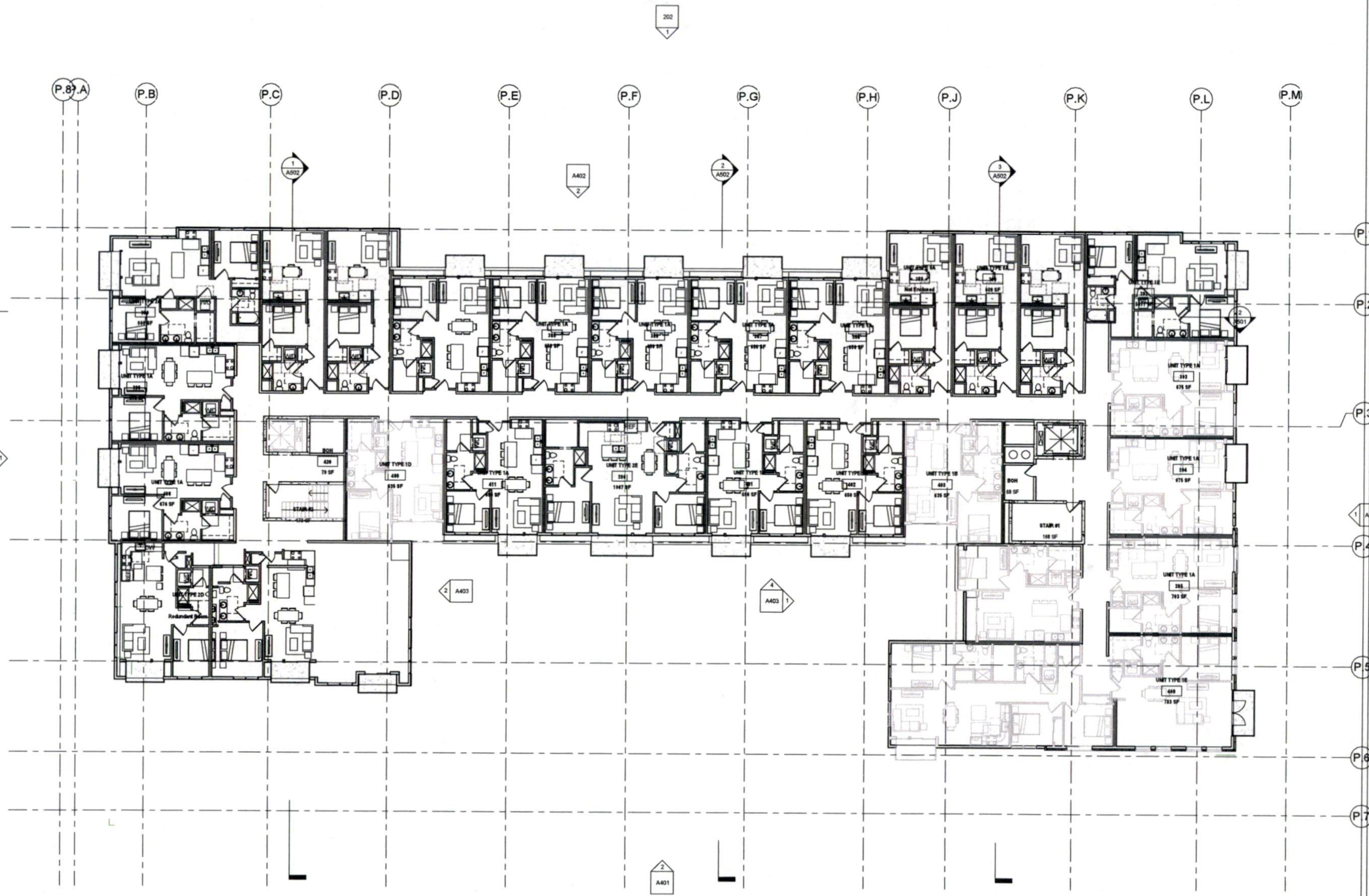
ISSUE:

Date:	Issue:	Rev.:

CA PROJECT NO: CA 15-026

LEVEL 4 BUILDING PLAN

A205



1 LEVEL 5 BUILDING PLAN
3/32" = 1'-0"

CRAINE ARCHITECTURE

CONFLUENCE
companies

RIVERWALK

RIVERWALK NORTH

SECOND AND WILCOX
CASTLE ROCK, CO

ISSUE:

Date:	Issue:	Rev.:

CA PROJECT NO: CA 15-026

LEVEL 5 BUILDING PLAN

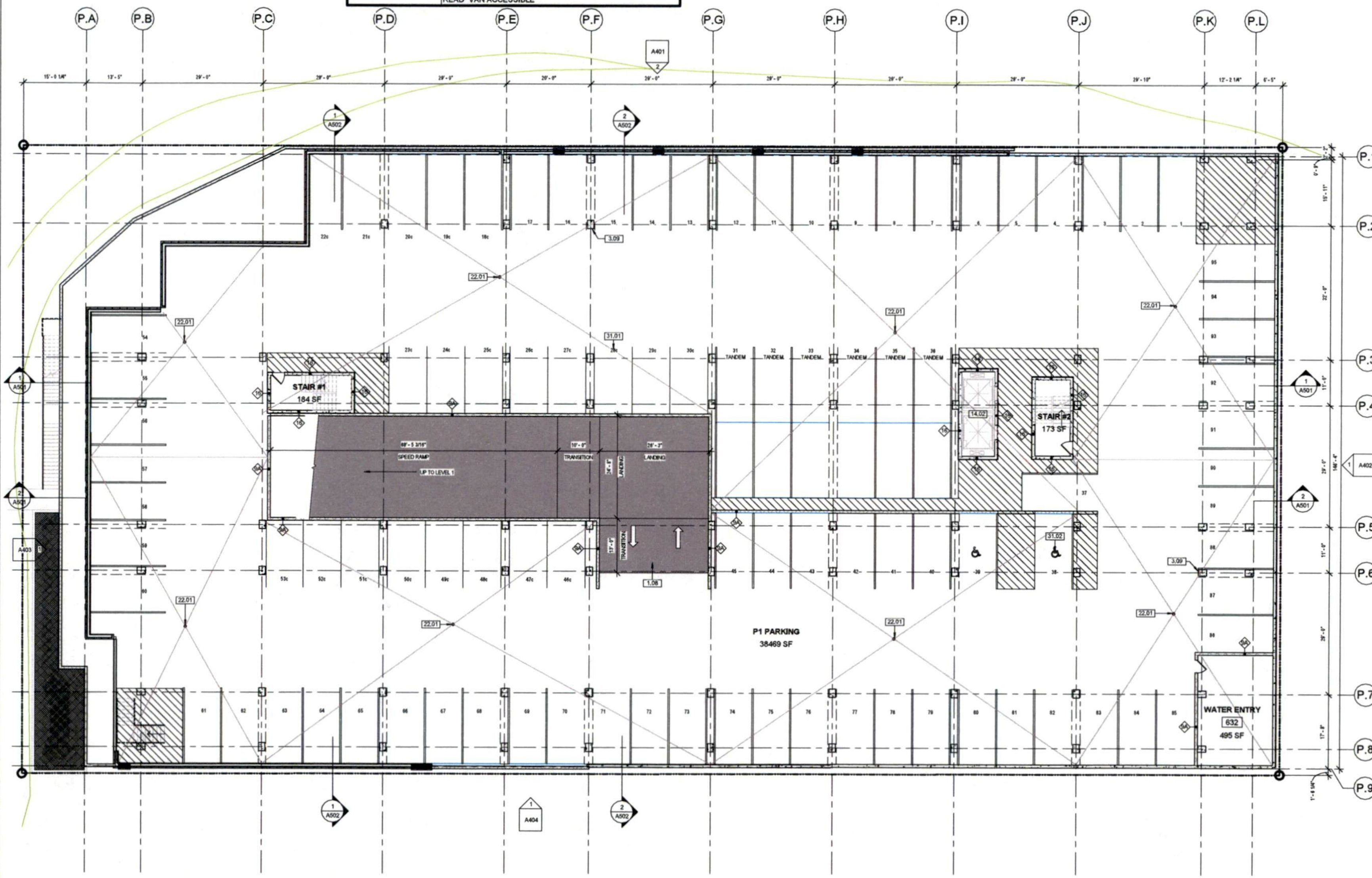
A206

Keynote Legend

Key Value	Keynote Text
1.08	SLOPED CONCRETE DRIVE (SHADED AREA)
3.09	CONC COLUMN, RE: STRUCT (033000)
14.02	ELEV SHAFT, RE: STRUCT & MECH
22.01	FLOOR DRAIN, RE: PLUMB (221319)

Keynote Legend

Key Value	Keynote Text
31.01	PARKING STRIPING & 12" STALL NUMBERS (WHITE NON-REFLECTIVE SUITABLE FOR PAVEMENT MARKING) (321723)
31.02	PROVIDE SIGN W/ INTERNATIONAL SYMBOL OF ACCESSIBILITY AND TXT STATING "RESERVED", MOUNT ON WALL AT 5'-0" AFFF TO BOT. OF SIGN. VAN SPACE SIGN TO READ "VAN ACCESSIBLE"



1 P1 BUILDING PLAN
3/32" = 1'-0"

CRAINE ARCHITECTURAL

CONFLUENCE companies

RIVERWALK

RIVERWALK SOUTH

115 SOUTH WILCOX STREET
CASTLE ROCK, CO

ISSUE:

Date:	Issue:	Rev.:

CA PROJECT NO: CA 15-038

LEVEL P1 FLOOR PLAN

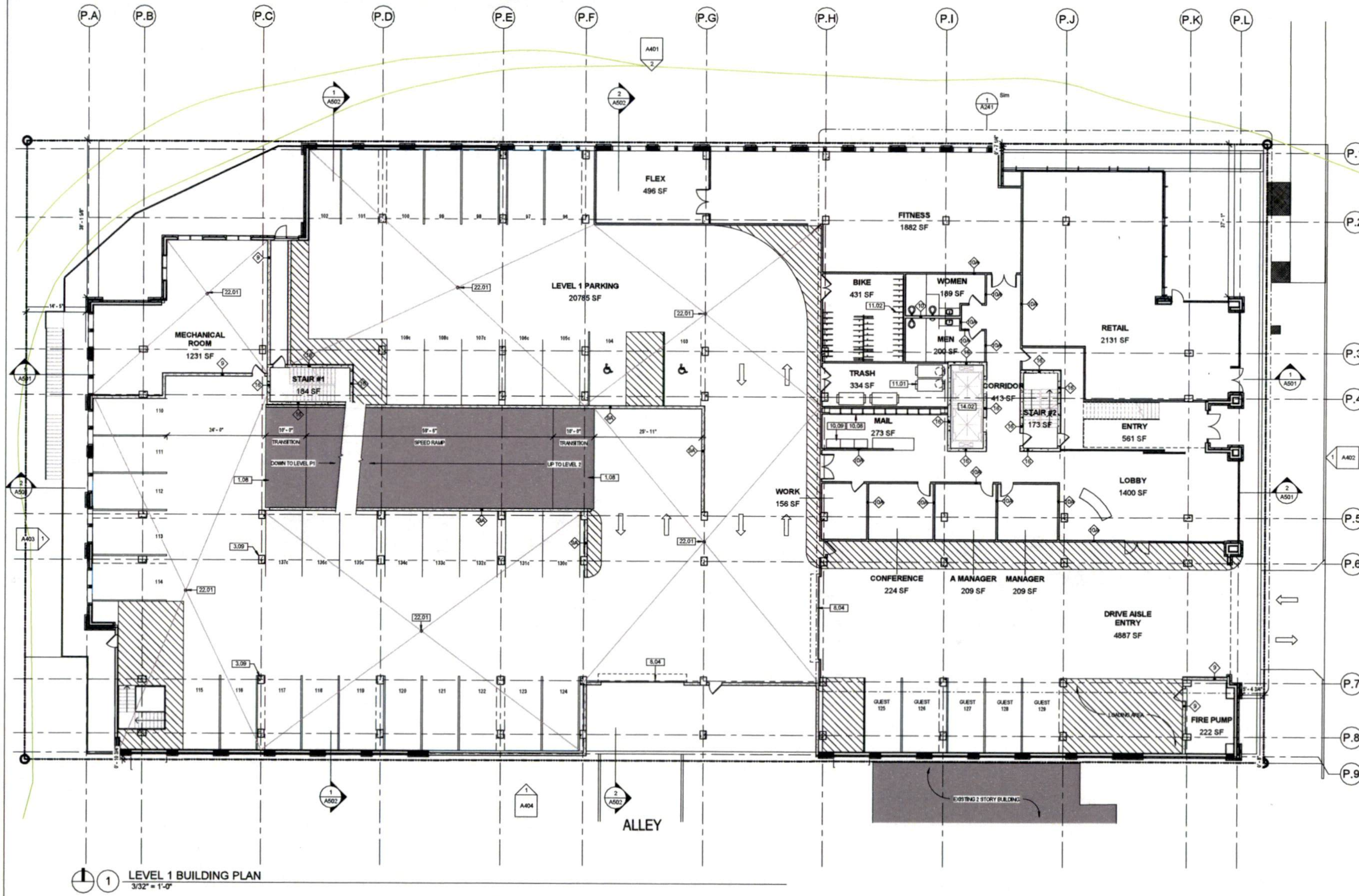
A201

Keynote Legend

Key Value	Keynote Text
1.08	SLOPED CONCRETE DRIVE (SHADED AREA)
3.09	CONC COLUMN, RE: STRUCT (033000)
8.04	FAST SEAL HIGH PERFORMANCE ROLLING DOOR AS SCHEDULED (083323)
10.08	MAILBOXES, RE: ID & SPECS

Keynote Legend

Key Value	Keynote Text
10.09	MANHOLE TO ACCESS VAULT BELOW
11.01	DUMPSTERS
11.02	UPRIGHT BIKE RACK, RE: SPEC
14.02	ELEV SHAFT, RE: STRUCT & MECH
22.01	FLOOR DRAIN, RE: PLUMB (221319)



1 LEVEL 1 BUILDING PLAN
3/32" = 1'-0"

CONFLUENCE
companies

RIVERWALK

RIVERWALK SOUTH

115 SOUTH WILCOX STREET
CASTLE ROCK, CO

ISSUE:

Date:	Issue:	Rev.:

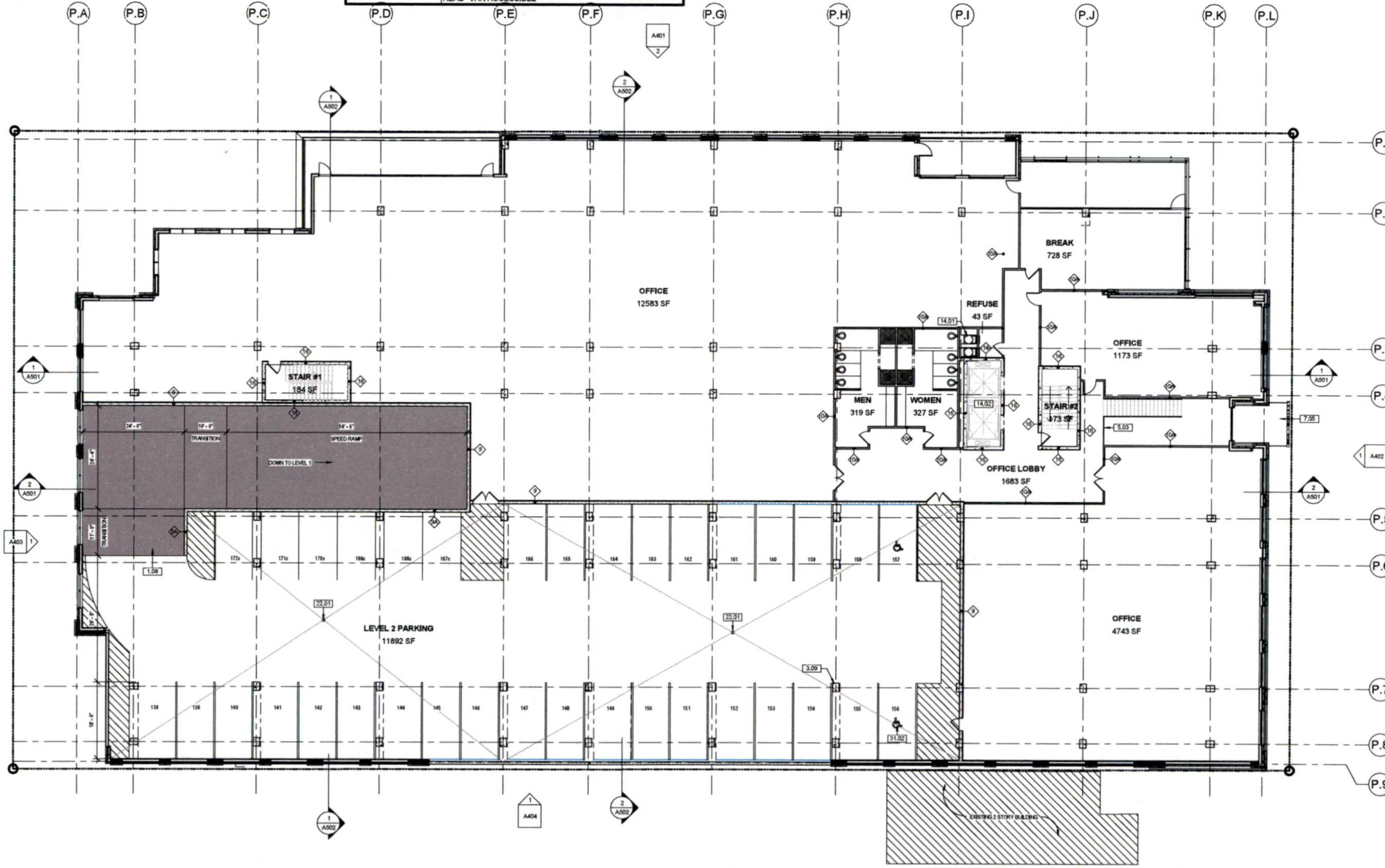
CA PROJECT NO: CA 15-028

LEVEL 1 FLOOR PLAN

A202

Keynote Legend	
Key Value	Keynote Text
1.08	SLOPED CONCRETE DRIVE (SHADED AREA)
3.09	CONC COLUMN, RE: STRUCT (033000)
5.03	MTL RAILING WITH POWDER COAT FINISH (055213)
7.05	METAL CANOPY (076200)

Keynote Legend	
Key Value	Keynote Text
14.01	TRASH & RECYCLING CHUTES (149182) VENT TO COMPY W/ NFPA 82.6
14.02	ELEV SHAFT, RE: STRUCT & MECH
22.01	FLOOR DRAIN, RE: PLUMB (221319)
31.02	PROVIDE SIGN W/ INTERNATIONAL SYMBOL OF ACCESSIBILITY AND TXT STATING "RESERVED". MOUNT ON WALL AT 5'-0" AFFF TO BOT. OF SIGN. VAN SPACE SIGN TO READ "VAN ACCESSIBLE"



LEVEL 2 BUILDING PLAN
3/32" = 1'-0"

CONFLUENCE companies

RIVERWALK

RIVERWALK SOUTH

115 SOUTH WILCOX STREET
CASTLE ROCK, CO

ISSUE:

Date:	Issue:	Rev.:

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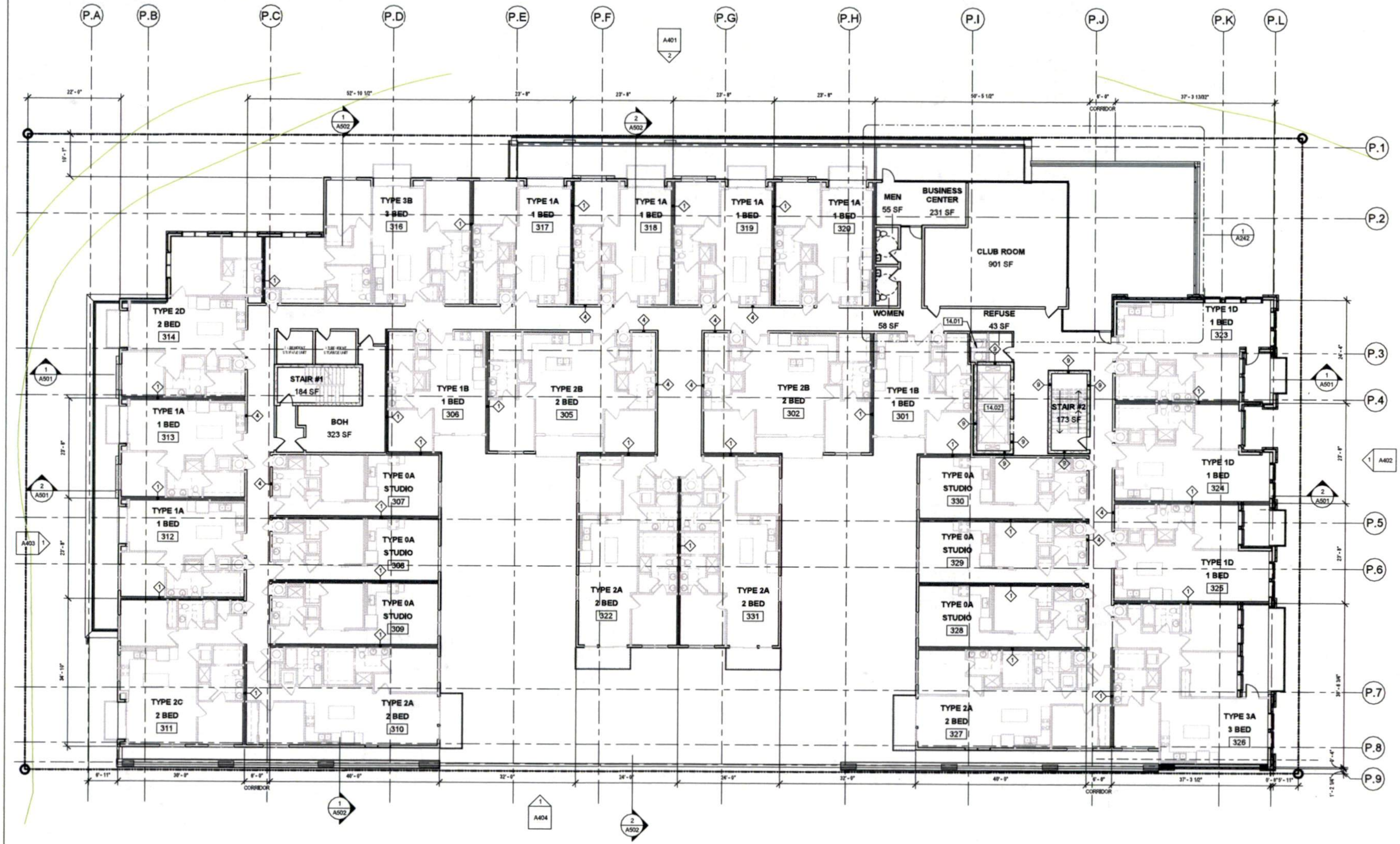
LEVEL 2 FLOOR PLAN

A203

Keynote Legend

Key Value	Keynote Text
14.01	TRASH & RECYCLING CHUTES (149182) VENT TO COMPY W/ NFPA 82.6
14.02	ELEV SHAFT, RE: STRUCT & MECH



1 LEVEL 3 BUILDING PLAN
3/32" = 1'-0"

CONFLUENCE companies

RIVERWALK

RIVERWALK SOUTH

115 SOUTH WILCOX STREET
CASTLE ROCK, CO

ISSUE:

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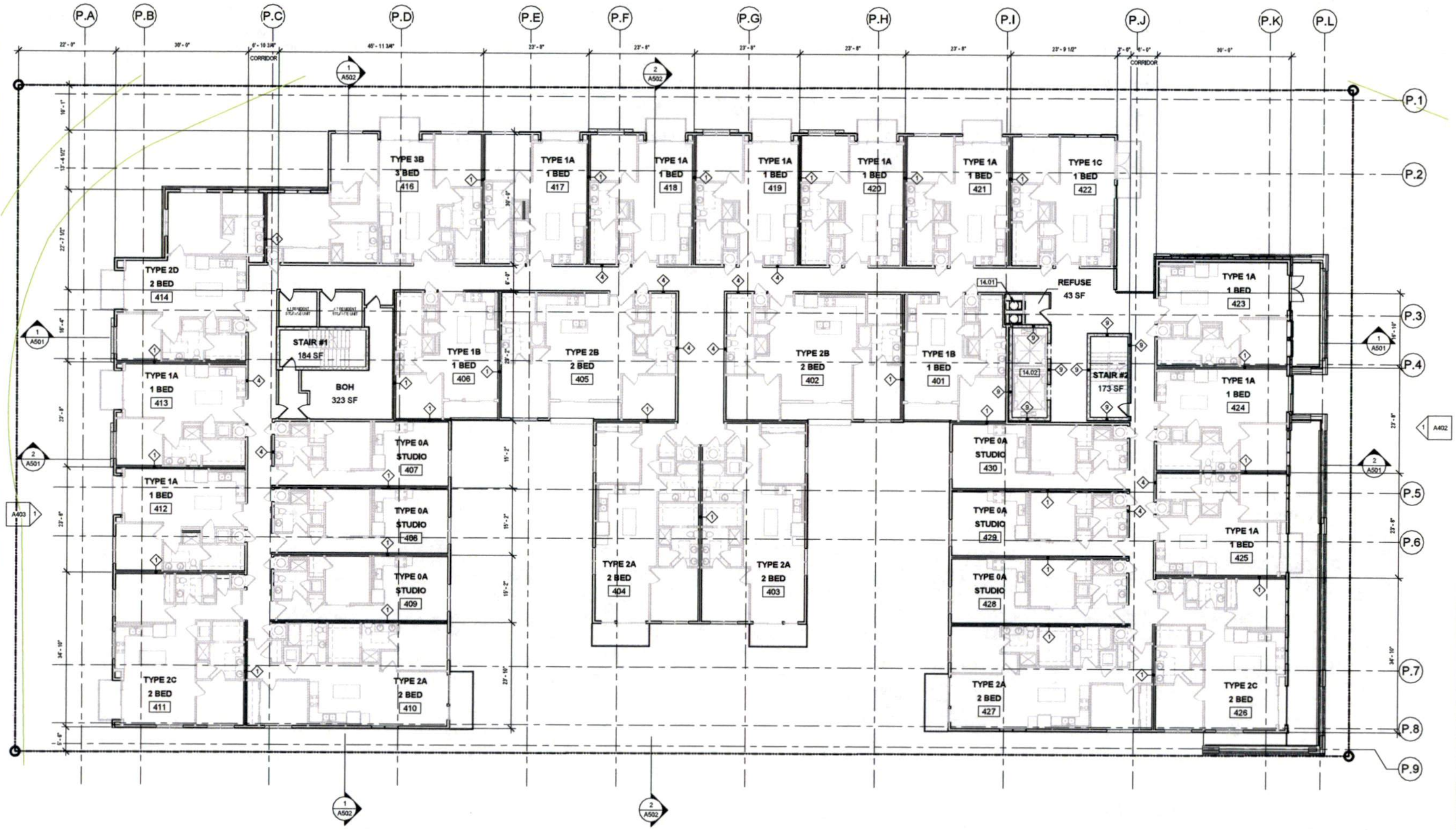
LEVEL 3 FLOOR PLAN

A204

Keynote Legend

Key Value	Keynote Text
14.01	TRASH & RECYCLING CHUTES (149182) VENT TO COMPY W/ NFPA 82.6
14.02	ELEV SHAFT, RE: STRUCT & MECH



1 LEVEL 4 BUILDING PLAN
3/32" = 1'-0"

CONFLUENCE companies

RIVERWALK

RIVERWALK SOUTH

115 SOUTH WILCOX STREET
CASTLE ROCK, CO

ISSUE:

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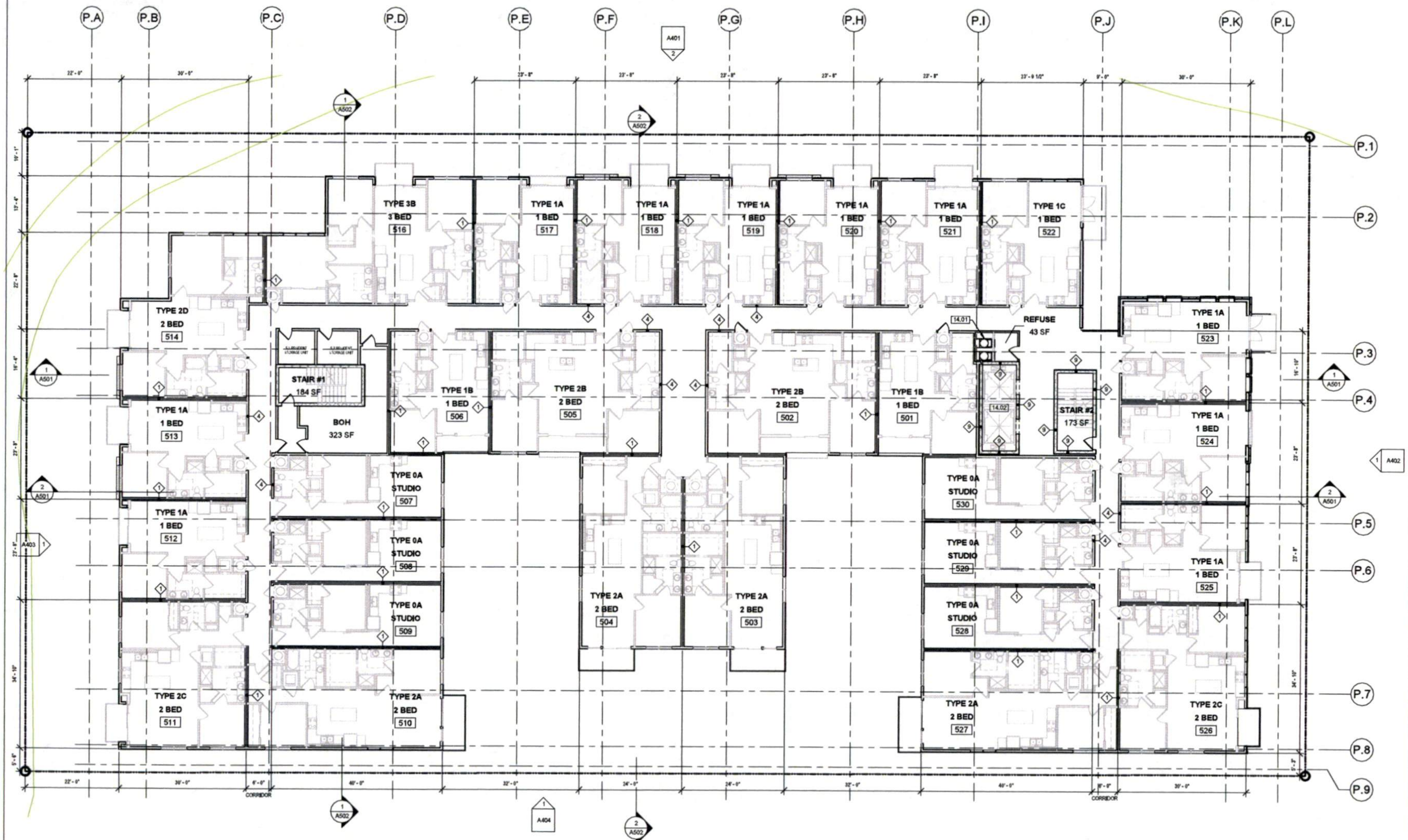
LEVEL 4 FLOOR PLAN

A205

Keynote Legend

Key Value	Keynote Text
14.01	TRASH & RECYCLING CHUTES (149182) VENT TO COMPY W/ NFPA 82.6
14.02	ELEV SHAFT, RE: STRUCT & MECH



1 LEVEL 5 BUILDING PLAN
3/32" = 1'-0"

CRAINE ARCHITECTURE

CONFLUENCE companies

RIVERWALK

RIVERWALK SOUTH

115 SOUTH WILCOX STREET
CASTLE ROCK, CO

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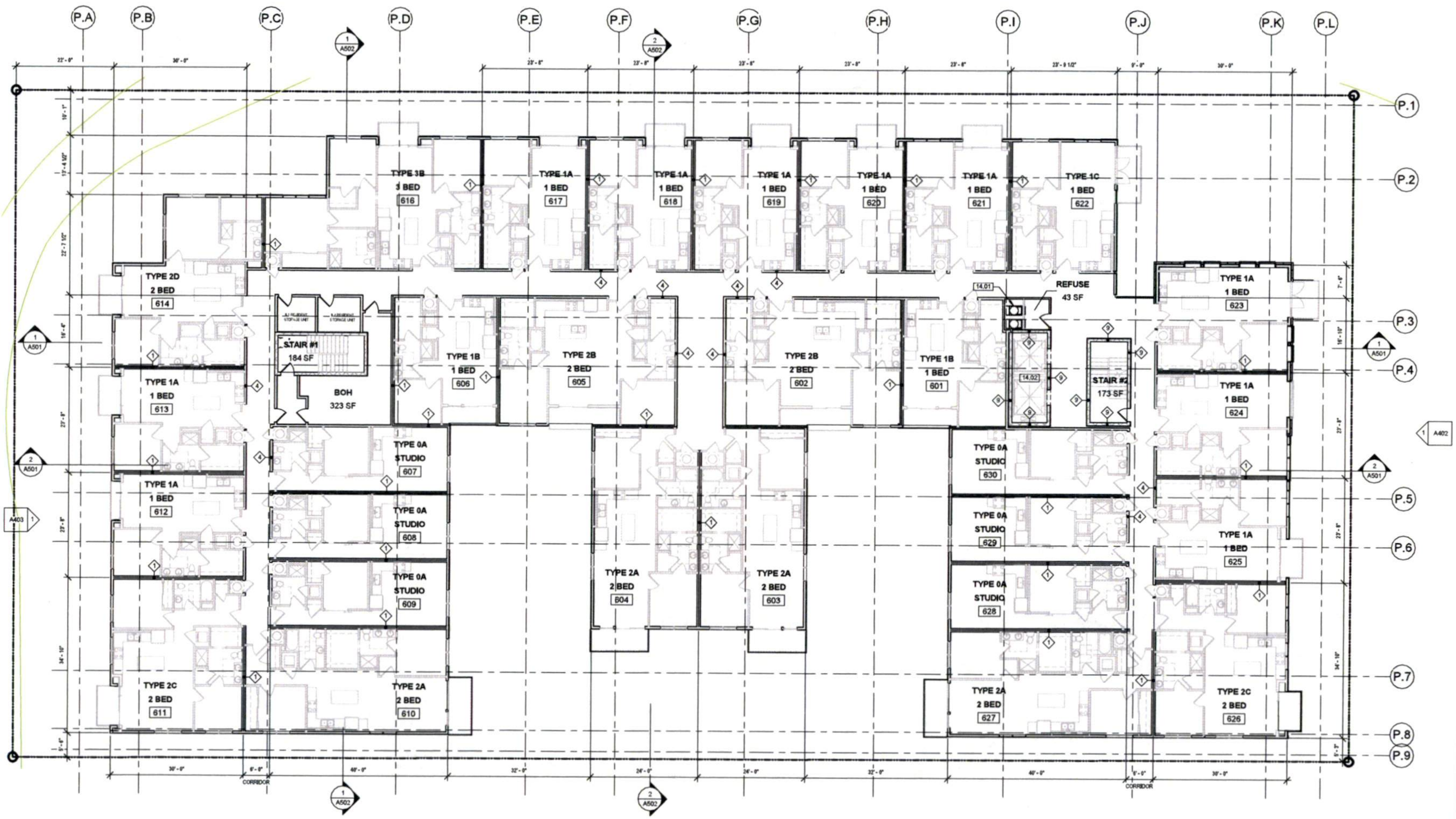
LEVEL 5 FLOOR PLAN

A206

Keynote Legend

Key Value	Keynote Text
14.01	TRASH & RECYCLING CHUTES (149182) VENT TO COMPY W/ NFPA 82.6
14.02	ELEV SHAFT, RE: STRUCT & MECH



1 LEVEL 6 BUILDING PLAN
3/32" = 1'-0"

CONFLUENCE companies

RIVERWALK

RIVERWALK SOUTH

115 SOUTH WILCOX STREET
CASTLE ROCK, CO

ISSUE:

Date:	Issue:	Rev.:

CA PROJECT NO: CA 15-026

LEVEL 6 FLOOR PLAN

A207

Exhibit 2

Development Research Partners

Date: June 28, 2016

From: Jesse Silverstein, Senior Economist, Development Research Partners

To: Kevin Tilson, Kevin Tilson, Director, Castle Rock Downtown Alliance

RE: Development Proforma Review for the Riverwalk Redevelopment

Development Research Partners, Inc. (DRP) has been engaged by the Castle Rock Downtown Alliance to review the development budgets, develop independent operating proformas, and evaluate feasibility gaps for the referenced project.

This memorandum summarizes DRP's review and findings.

PROJECT BASIS

- The proposed redevelopment sites are two parcels located at 111-113 Wilcox Street and 215 Wilcox Street, straddling either side of Sellers Gulch. Confluence Partners, the developer, owns both parcels which are currently improved with commercial uses. Together, the assemblage totals almost 5.8 acres.
- The proposed redevelopment is planned to include 239 residential units, 24,188 square feet of office, 6,885 square feet of retail, and 137,252 square feet of structured parking.
- Because of the commercial building design and occupancy for existing buildings on the parcels, The developer reported paying a premium over and above vacant land price, which DRP confirms, leading to additional project costs associated with tenant relocation, demolition to clear the site, and relocation of utilities for the new use.

SCOPE OF REVIEW

In developing a market-based proforma and evaluating feasibility gaps, DRP has researched current real estate data to benchmark the developer's proposed project to broader market indicators in the development community at large. DRP reviewed and provided independent research regarding the following assumptions:

- Review of Apartment Appraisers and Consultant's market analysis commissioned by Confluence Partners
- Land market values
- Market rental rates
- Construction costs
- Commercial "permanent" mortgage loan rates and terms
- Commercial construction loan rates and terms
- Market surveys for investment criteria and yield indicators
- Feasibility gap estimates, if any

Methodology used by DRP entails evaluating construction costs, rental rates, and market performance based on the developer's proposed project specifications.

PROJECT ASSUMPTIONS

The following chart compares the as-proposed development proforma assumptions with DRP's market-derived assumptions which illustrate generally prevailing market conditions. Every development project is unique and every developer has their own construction style and investment hurdle rates.

MODEL ASSUMPTIONS	Market-Based*	Developer-Proposed	Comments
Residential Rent			The development proforma assumes both office and retail are gross leases. DRP assumes retail rent is on a net basis and office rent is on a gross basis. It is assumed that office rates include tenant improvements amortized over the term of the lease.
Studio	$1,100/mo	$1,083/mo	
1-Bedroom	$1,200/mo	$1,183/mo	
2-Bedroom	$1,500/mo	$1,542/mo	
Commercial Rent			
Retail	$19.00/sf/yr	$20.00/sf/yr	
Office	$20.00/sf/yr	$20.00/sf/yr	
Lease Terms			Generally commercial leases are 3- to 5-years and often carry scheduled year 3 rent bumps
Residential	1	1	
Commercial (yrs)	3	3	
Expenses			The development proforma models all commercial space as gross (tenant pays all expenses) with $1.50 annual (re)leasing costs. DRP models office space on a traditional gross basis; retail on modified net basis.
Residential	$5,500/unit	$5,500/unit	
Office	$8.50/sf	$1.50/sf	
Retail	$2.00/sf	$1.50/sf	
Vacancy	5.0% + 2% economic loss & annual leasing costs	6.0% combined vacancy and economic loss	Both the development proforma and DRP assume stabilized vacancy by end of operating year 2
Perm Loan:			Loan terms are variable depending on specifics and location of the project, borrower credit, and other factors specific to each project.
Loan:Value Ratio	75%	70%	
Interest	5.5	6.0%	
Term	25	30 yrs	
Construction Loan:			Loan terms are variable depending on specifics and location of the project, borrower credit, and other factors specific to each project.
Loan:Cost Ratio	75%	65%	
Interest	5.5%	4.5%	
Term	Interest only	Interest only	
Growth Rate			DRP uses a long-term rate of growth; development proforma shows higher rates of rent growth in early years.
Market Rent	3.00%	6% yr1; 4% yr2; 3%-yr3+	
Op Expenses	3.00%	2.00%	
Development Costs	$64.5 million	$60.5 million	Market-derived cost source: RS Means Square Foot Costs.
Rates of Return Indicators			Return on Equity (leveraged cash-on-cash) is the primary indicator used herein for estimating the gap.
Cap Rate (going in)	6.5%	6.0%	
Terminal Cap Rate	7.5%	6.25%	
IRR (unleveraged)	5.2%	5.2%	
Return on Equity	14.1%	na	

**DRP market research*

OBSERVATIONS

The following summarizes observations made during the analysis:

- DRP has estimated development costs almost 7% higher the developer; the Developer's estimated construction costs of $60.5 million are used.
- In consideration of the metro Denver apartment market's imminent plateauing, the projects pioneering location, and the number of units being added to the market, DRP smooths out an estimated long-term 3.0% growth rate across all years of the proforma and utilizes somewhat higher cap rates.
- Overall, the development proforma' s assumptions seem reasonable and generally within market parameters.

Notable Project Challenges

The Riverwalk project faces challenges unique to the location and transaction parameters leading to costs and coordination time over and above other similar projects including:

- A large mixed-use project in a pioneering location for that use creates lending risk for debt and equity financing.
- Land costs totaling over $55 per sf and still requires relocating tenants and demolition. In comparison, the vacant Mercantile Commons vacant site sold for about $23 per sf. While some of Riverwalk's premium is offset by revenue from existing tenants, a notable purchase premium was incurred.
- The project is spread across two separate building pads. Confluence Partners estimates that the two separate buildings, rather than a single building pad, adds about $18 per sf additional construction costs for duplicative architectural plans, foundation features, and related costs.
- Soil conditions require upgraded foundations and structural elements.
- There is a need to acquire surplus land for utilities relocation and easements, and to provide new utilities.

TARGET RATES OF RETURN

Based on investor surveys and market data reviewed by DRP, the following target rate is used to proxy investment hurdle rates of return. In other words, it is assumed the cash flow projections must provide rates of return within the following ranges to be considered attractive to the market:

MARKET-BENCHMARK SCENARIO

market-derived rent, expenses, and market performance; market financing terms; construction survey based development cost estimates

Gap Funding Level	Return on Equity
Rate of Return Target Range	*10% to 20%*
$12,000,000	9.5%
$13,000,000	11.3%
$14,000,000	**14.1%**
$15,000,000	18.5%

ESTIMATED FEASIBILITY GAP

DRP's financial analysis (see attachment) indicates at least a $13 million feasibility gap to just begin making the project financially feasible. DRP's investor survey reviews indicate that market developers generally find a return on equity of about 14% to 15% to be attractive.

In consideration of market status, location, development challenges, and market-derived assumptions **DRP estimates a market feasibility gap of about $14.0 million**.

Projected operating performance and required rates of return are very specific to each individual investor and developer. The market-rate assumptions are intended to evaluate the most typical acquisition terms in the market, which can and will differ with any specific individual developer.

ESTIMATED FEASIBILITY GAP WITH PROPOSED PUBLIC-PRIVATE PARTNERING

Castle Rock and Confluence Partners are both interested in the success of the Riverwalk project and have discussed an appropriate level of public investment that can be contributed to the project to yield public benefits and enable the project to be feasibly developed. To this end, DRP has evaluated the impact of these public-private partnering terms on feasibility.

In summary, DRP has evaluated the following annual public investments on project feasibility:

Public Investment Type	Annually
Sales Tax Increment	75% of estimated sales tax increment; sales estimated @ $220/sf
Property Tax Increment	75% of estimated property tax increment
Fee & Use Tax Waivers	$3,336,762 offsetting initial investment and construction costs; evaluated as a lump sum investment during the construction period
PIF	1% retail fee to the developer

Castle Rock and Confluence Partners have proposed the above public-private partnering terms totaling $12.2 million in public contribution over time. These terms were incorporated into a second feasibility model that also targeted a developers' cash-on-cash hurdle rate of 14%. Within this model the $12.2 million in public contributions over time is discounted to today's dollars along with all other future cash flows. After discounting these contributions to current value to account for the time value of money, the $12.2 million projected contributions over time equate to about $4.6 million in current dollars. While this present value may be lower than the lump sum contribution over time, annual payments do offer additional benefits to the developer such as supporting future cash flows and reducing risk to lenders.

In summary, **after considering the public investments described above, the feasibility gap is estimated at about $9,000,000**. The project as-built may perform better than market assumptions which would reduce this estimated gap accordingly.

PROJECT RIVERWALK'S ECONOMIC, FISCAL, AND MARKET IMPLICATIONS

Mixed-use development is a challenging real estate product type in any market. Most real estate development is of a single use, with straightforward construction, market analysis, proformas, and lenders/investors that are comfortable with the lending risks for a single-use property type. The inherent risk viewed by many different partners in a mixed-use project creates a challenge just to negotiate risk-reward parameters for all the parties. Additionally, construction is more challenging and requires tighter oversight and construction management. Due to these and other factors, only a small community of developers is willing to take on mixed-use development in general, particularly in a pioneering location. However, in today's community and economic development climate, this type of development can play a large role in shaping a community's functionality for businesses and residents, supporting economic health:

- Having diverse housing stock downtown attracts diverse households that can range from singles to young families to empty nesters. There is a symbiotic relationship between downtown residents and businesses wherein residents support downtown businesses and downtown businesses provide a lifestyle to residents.

- A well tenanted and active downtown is attractive to visitors who attend sporting events, fairs, or Castle Rock's recreational assets. This represents dollars imported to the community and a contribution to the economic health of the town.
- An active downtown lifestyle along with the availability of downtown housing will enable local businesses to attract a qualified work force to support growth, expansion, and attraction.
- Purchases by households financially support local businesses and the Town of Castle Rock. In a recent economic/fiscal impact analysis conducted for a similar project in Castle Rock it is estimated that each new mixed-use household will spend about $12,000 on taxable retail annually in town, supporting businesses.
- These businesses in turn purchase goods and services from other local vendors and suppliers, supporting overall revenues.

IN CONCLUSION

The developer has provided a realistic estimate of development costs and anticipated operating cash flows. The assumptions presented by Confluence Partners with regard to their specific projections are reasonable based on DRP's research of current market conditions.

DRP independently developed a proforma and financial analysis from a market perspective rather than the needs of any particular investor/developer. The conclusions reported herein are based on this market-derived analysis. As a fully private-sector funded project DRP's analysis identifies an upfront feasibility gap of about $14 million.

Castle Rock and Confluence Partners are both interested in the success of the Riverwalk project and have proposed public-private partnering terms totaling $12.2 million in public contribution over time. These terms were incorporated into the feasibility analysis to evaluate the impact on feasibility. After considering the time value of money and Castle Rock's contribution to the project, the feasibility is reduced to $9 million. This gap may be able to be addressed by greater than projected project performance, alternative financing, and/or other developer-based approaches.

Please let me know if you have further questions or desire clarification.

###

Scenario:

Project River Walk As Proposed, analyzed with market assumptions

PROJECT SUMMARY

Property Summary	
No. Units	Various
Rentable SF	213,827
Total Construction Cost	$60,500,000
Construction per Square Foot	$283
Construction Equity	$18,150,000
ConstructionDebt	$42,350,000

Construction Loan Summary	
Loan : Cost Ratio	70%
Contruction Loan Term (mos)	24
Construction Interest Rate	5.00%
Construction Loan Amount	$42,350,000
Construct Loan Per RSF	$198.06

Perm Loan Summary	
Perm Loan : Value Ratio	70%
Perm Loan Amount	$27,890,691
Perm Loan Ammortization (yrs)	30
Perm Interest Rate	6.00%
Perm Loan Yearly Payment	$2,006,625
Perm Term	10
Perm Loan Balance	$23,340,527
Loan Fees/Closing Costs	2.0%

Proforma	
Year Stabilized	3
Stabilized NOI	$2,589,850
Stabilized Cap Rate	6.50%
Stabilized Proforma Value	$39,843,845
Stabilized Value Per RSF	$186
Value upon Completion	$24,926,139
Reversion Cap Rate	7.50%
Growth Rate	3.00%

GAP FUNDING - applied to contruction equity $14,000,000

Feasibility Indicators (10 yr hold)		Market Target Rate
Cost/Value*	151.8%	
Return on Equity (leveraged cash-on-cash)*	14.1%	10% to 20%
IRR on Project (unleveraged)	5.2%	9% to 12%

*Stabilized Year

OPERATING PROFORMA

Proforma Year		**CONSTRUCT**	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**
Investment													
Construction Equity		(18,150,000)											
Construction Debt		(42,350,000)											
Construction Cost		**(60,500,000)**											
Operating Income													
Net Income from Property Operations		$0	$1,620,199	$2,531,711	$2,589,850	$2,690,718	$2,766,469	$2,829,999	$2,940,220	$3,022,996	$3,092,416	$3,212,858	$3,303,309
GAP Funding		*$14,000,000*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*
NOI		**$14,000,000**	**$1,620,199**	**$2,531,711**	**$2,589,850**	**$2,690,718**	**$2,766,469**	**$2,829,999**	**$2,940,220**	**$3,022,996**	**$3,092,416**	**$3,212,858**	**$3,303,309**
(less) Construction Loan Interest Payment			($2,117,500)	($2,117,500)									
(less) Perm Loan Payments			($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)
Operating Cash Flow		**$14,000,000**	**($2,503,926)**	**($1,592,414)**	**$583,224**	**$684,093**	**$759,844**	**$823,373**	**$933,595**	**$1,016,370**	**$1,085,791**	**$1,206,233**	**$1,296,683**
Refinance/Gross Reversion Proceeds												$44,044,119	
(less) Closing Costs	2.00%											($880,882)	
(less) Loan Balance												($23,340,527)	
Net Refi/Reversion Proceeds												**$19,822,709**	
Unleveraged Cash Flow (NET OF CONST GAP FUNDING)		**($46,500,000)**	**$1,620,199**	**$2,531,711**	**$2,589,850**	**$2,690,718**	**$2,766,469**	**$2,829,999**	**$2,940,220**	**$3,022,996**	**$3,092,416**	**$46,376,094**	**$3,303,309**
Leveraged Cash Flow (NET OF CONST GAP FUNDING)		**($4,150,000)**	**($2,503,926)**	**($1,592,414)**	**$583,224**	**$684,093**	**$759,844**	**$823,373**	**$933,595**	**$1,016,370**	**$1,085,791**	**$21,028,942**	**$1,296,683**
Rates of Return Analysis													
Return on Equity (cash-on-cash)			-60.34%	-38.37%	14.05%	16.48%	18.31%	19.84%	22.50%	24.49%	26.16%	506.72%	31.25%
IRR on Project (unleveraged)		5.19%											
IRR on Equity (leveraged)		15.31%											
Return on Cost			2.68%	4.18%	4.28%	4.45%	4.57%	4.68%	4.86%	5.00%	5.11%	5.31%	5.46%

Scenario:

Project River Walk As Proposed, analyzed with market assumptions; includes planned public investment

PROJECT SUMMARY

Property Summary	
No. Units	Various
Rentable SF	213,827
Total Construction Cost	$60,500,000
Construction per Square Foot	$283
Construction Equity	$18,150,000
ConstructionDebt	$42,350,000

Construction Loan Summary	
Loan : Cost Ratio	70%
Contruction Loan Term (mos)	24
Construction Interest Rate	5.00%
Construction Loan Amount	$42,350,000
Construct Loan Per RSF	$198.06

Perm Loan Summary	
Perm Loan : Value Ratio	70%
Perm Loan Amount	$27,890,691
Perm Loan Ammortization (yrs)	30
Perm Interest Rate	6.00%
Perm Loan Yearly Payment	$2,006,625
Perm Term	10
Perm Loan Balance	$23,340,527
Loan Fees/Closing Costs	2.0%

Proforma	
Year Stabilized	3
Stabilized NOI	$2,589,850
Stabilized Cap Rate	6.50%
Stabilized Proforma Value	$39,843,845
Stabilized Value Per RSF	$186
Value upon Completion	$24,926,139
Reversion Cap Rate	7.50%
Growth Rate	3.00%

GAP FUNDING - applied to contruction equity $9,200,000

Feasibility Indicators (10 yr hold)		Market Target Rate
Cost/Value*	151.8%	
Return on Equity (leveraged cash-on-cash)*	14.1%	10% to 20%
IRR on Project (unleveraged)	0.6%	
IRR on Equity (leveraged)	14.8%	

*Stabilized Year

OPERATING PROFORMA

Proforma Year		CONSTRUCT	1	2	3	4	5	6	7	8	9	10	11
Investment													
Construction Equity		(18,150,000)											
Construction Debt		(42,350,000)											
Construction Cost		**(60,500,000)**											
Operating Income													
Net Income from Property Operations		$0	$1,620,199	$2,531,711	$2,589,850	$2,690,718	$2,766,469	$2,829,999	$2,940,220	$3,022,996	$3,092,416	$3,212,858	$3,303,309
NOI		**$0**	**$1,620,199**	**$2,531,711**	**$2,589,850**	**$2,690,718**	**$2,766,469**	**$2,829,999**	**$2,940,220**	**$3,022,996**	**$3,092,416**	**$3,212,858**	**$3,303,309**
(less) Construction Loan Interest Payment			($2,117,500)	($2,117,500)									
(less) Perm Loan Payments			($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)	($2,006,625)
Operating Cash Flow		**$0**	**($2,503,926)**	**($1,592,414)**	**$583,224**	**$684,093**	**$759,844**	**$823,373**	**$933,595**	**$1,016,370**	**$1,085,791**	**$1,206,233**	**$1,296,683**
Annual Gap Financing Payments													
Construction Gap Funding		*$9,200,000*											
Sales Tax Increment			*$0*	*$29,240*	*$60,234*	*$62,041*	*$63,902*	*$65,819*	*$67,794*	*$69,828*	*$71,923*	*$74,081*	*$76,303*
Property Tax Increment			*$0*	*$0*	*$128,420*	*$256,839*	*$272,480*	*$272,480*	*$289,074*	*$289,074*	*$306,679*	*$306,679*	*$325,355*
Fee & Use Tax Waivers		*$3,336,762*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*	*$0*
1% PIF					*$21,659*	*$22,309*	*$22,978*	*$23,667*	*$24,377*	*$25,109*	*$25,862*	*$26,638*	*$27,437*
TOTAL ANNUAL GAP FINANCING		***$12,536,762***	***$0***	***$29,240***	***$210,313***	***$341,189***	***$359,360***	***$361,966***	***$381,245***	***$384,011***	***$404,464***	***$407,398***	***$429,095***
Refinance/Gross Reversion Proceeds												$44,044,119	
(less) Closing Costs	2.00%											($880,882)	
(less) Loan Balance												($23,340,527)	
Net Refi/Reversion Proceeds												**$19,822,709**	
Unleveraged Cash Flow		**($47,963,238)**	**$1,620,199**	**$2,560,951**	**$2,800,163**	**$3,031,907**	**$3,125,829**	**$3,191,965**	**$3,321,466**	**$3,407,006**	**$3,496,880**	**$23,442,965**	**$3,732,404**
Leveraged Cash Flow		**($5,613,238)**	**($2,503,926)**	**($1,563,174)**	**$793,537**	**$1,025,282**	**$1,119,204**	**$1,185,340**	**$1,314,840**	**$1,400,381**	**$1,490,255**	**$21,436,340**	**$1,725,778**
Rates of Return Analysis													
Return on Equity (cash-on-cash)			-44.61%	-27.85%	14.14%	18.27%	19.94%	21.12%	23.42%	24.95%	26.55%	381.89%	30.74%
IRR on Project (unleveraged)		0.55%											
IRR on Equity (leveraged)		14.80%											
Return on Cost			2.68%	4.18%	4.28%	4.45%	4.57%	4.68%	4.86%	5.00%	5.11%	5.31%	5.46%

Exhibit 3

FEE CATEGORY	PROJECT COSTS BY CATEGORY AND TAP SIZE					
	RIVERWALK NORTH	RIVERWALK SOUTH	SITE DEVELOPMENT FEES	RIVERWALK NORTH	RIVERWALK SOUTH	SITE DEVELOPMENT FEES
	2"	2"	N/A	3"	3"	N/A
BUILDING PERMIT FEE	$ 49,274	$ 49,586	$ -	$ 49,274	$ 49,586	$ -
PLAN CHECK	$ 32,028	$ 32,231	$ -	$ 32,028	$ 32,231	$ -
ADMIN COST RECOVERY FEE	$ 14,652	$ 14,742	$ -	$ 14,652	$ 14,742	$ -
USE TAX (4% CR)	$ 233,335	$ 234,876	$ -	$ 233,335	$ 234,876	$ -
USE TAX (1% DOUGCO)	$ 64,815	$ 65,243	$ -	$ 64,815	$ 65,243	$ -
MF IMPACT FEE PARKS	$ 267,155	$ 269,400	$ -	$ 267,155	$ 269,400	$ -
MF IMPACT FEE MUNI FACILITIES	$ 36,057	$ 36,360	$ -	$ 36,057	$ 36,360	$ -
MF IMPACT FEE FIRE	$ 55,097	$ 55,560	$ -	$ 55,097	$ 55,560	$ -
MF IMPACT FEE POLICE	$ 28,679	$ 28,920	$ -	$ 28,679	$ 28,920	$ -
MF IMPACT FEE TRANSPORTATION	$ 261,205	$ 263,400	$ -	$ 261,205	$ 263,400	$ -
IMPACT FEE: MUNI FACILITIES OFFICE	$ 630	$ 630	$ -	$ 630	$ 630	$ -
IMPACT FEE: FIRE OFFICE	$ 1,533	$ 1,533	$ -	$ 1,533	$ 1,533	$ -
IMPACT FEE: POLICE OFFICE	$ 315	$ 315	$ -	$ 315	$ 315	$ -
IMPACT FEE: TRANSPORTATION OFFICE	$ 8,012	$ 8,012	$ -	$ 8,012	$ 8,012	$ -
IMPACT FEE: FIRE RETAIL	$ 705	$ 705	$ -	$ 705	$ 705	$ -
IMPACT FEE: MUNI FACILITIES RETAIL	$ 198	$ 198	$ -	$ 198	$ 198	$ -
IMPACT FEE: POLICE RETAIL	$ 420	$ 420	$ -	$ 420	$ 420	$ -
IMPACT FEE: TRANSPORTATION RETAIL	$ 3,905	$ 3,905	$ -	$ 3,905	$ 3,905	$ -
WATER SYSTEM	$ 22,104	$ 22,104	$ -	$ 55,244	$ 55,244	$ -
RENEWABLE WATER	$ 101,704	$ 101,704	$ -	$ 254,184	$ 254,184	$ -
WASTEWATER SYSTEM	$ 22,925	$ 22,925	$ -	$ 57,295	$ 57,295	$ -
METER SET FEE: SINGLE PORT INDOOR INSTALL	$ 1,764	$ 1,764	$ -	$ 2,120	$ 2,120	$ -
FIRE AND RESCUE PLAN REVIEW FEES	$ 6,023	$ 5,965	$ -	$ 6,023	$ 5,965	$ -
STORMWATER IMPACT FEES (PLUM CREEK) MF	$ 94,962	$ 95,760	$ -	$ 94,962	$ 95,760	$ -
STORMWATER IMPACT FEES (PLUM CREEK) COMMERCIAL	$ 9,105	$ 9,105	$ -	$ 9,105	$ 9,105	$ -
SDP			$ 2,500			$ 2,500
PLAT (IF NEEDED)			$ 1,000			$ 1,000
CD REVIEW FEE (UP TO 5 ACRE +350/ ADTL ACRE)			$ 2,500			$ 2,500
GESC REVIEW FEE (+$25 / ADTL ACRE AFTER 5)			$ 435			$ 435
construction permit (INCLUDES INSP. FEE AND USE TAX. $2,725 + $19/$1000 VALUATION (BEYOND $200,000) + 1/2 VALUATION * 4% CR USE TAX * 1% DOUGCO USE TAX			$ 7,676			$ 7,676
CONSTRUCTION PERMIT USE TAX (CASTLE ROCK)			$ 70,000			$ 70,000
CONSTRUCTION PERMIT USE TAX (DOUGLAS COUNTY)			$ 17,500			$ 17,500
GESC PERMIT			$ 1,200			$ 1,200
CONSTRUCTION SURETY (BASED UPON VALUATION AND HOW SURETY IS POSTED)			$ -			$ -
GESC SURETY (BASED UPON VALUATION AND HOW SURETY IS POSTED)			$ -			$ -
TOTAL AMOUNT	$ 1,316,602	$ 1,325,362	$ 102,811	$ 1,536,947	$ 1,545,708	$ 102,811

FEE GROUPING (BY BUILDING OR SITE DEVELOPMENT)	PROJECT COST 2"	PROJECT COST 3"
RIVERWALK NORTH	$ 1,316,602	$ 1,536,947
RIVERWALK SOUTH	$ 1,325,362	$ 1,545,708
SITE DEVELOPMENT FEES	$ 102,811	$ 102,811
TOTAL:	$ 2,744,775	$ 3,185,465

COST DRIVERS	NORTH	SOUTH
VALUATION	$ 12,963,049	$ 13,048,654
MF UNITS	119	120
MF SQUARE FOOTAGE	99,472	100,308
OFFICE SQFT	10,500	10,500
RETAIL SQFT	4,828	4,828
TOTAL SQFT	120,186	118,345

EXHIBIT 4

PARCEL A:
LOT 2A, THE TOWN OF CASTLE ROCK AMENDMENT NO. 28, COUNTY OF DOUGLAS, STATE OF COLORADO.

PARCEL B:
LOT 5, BLOCK 28, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO.

PARCEL C:
LOTS 3A, 9A, 10A AND 11A, TOWN OF CASTLE ROCK THIRD AMENDMENT, COUNTY OF DOUGLAS, STATE OF COLORADO.

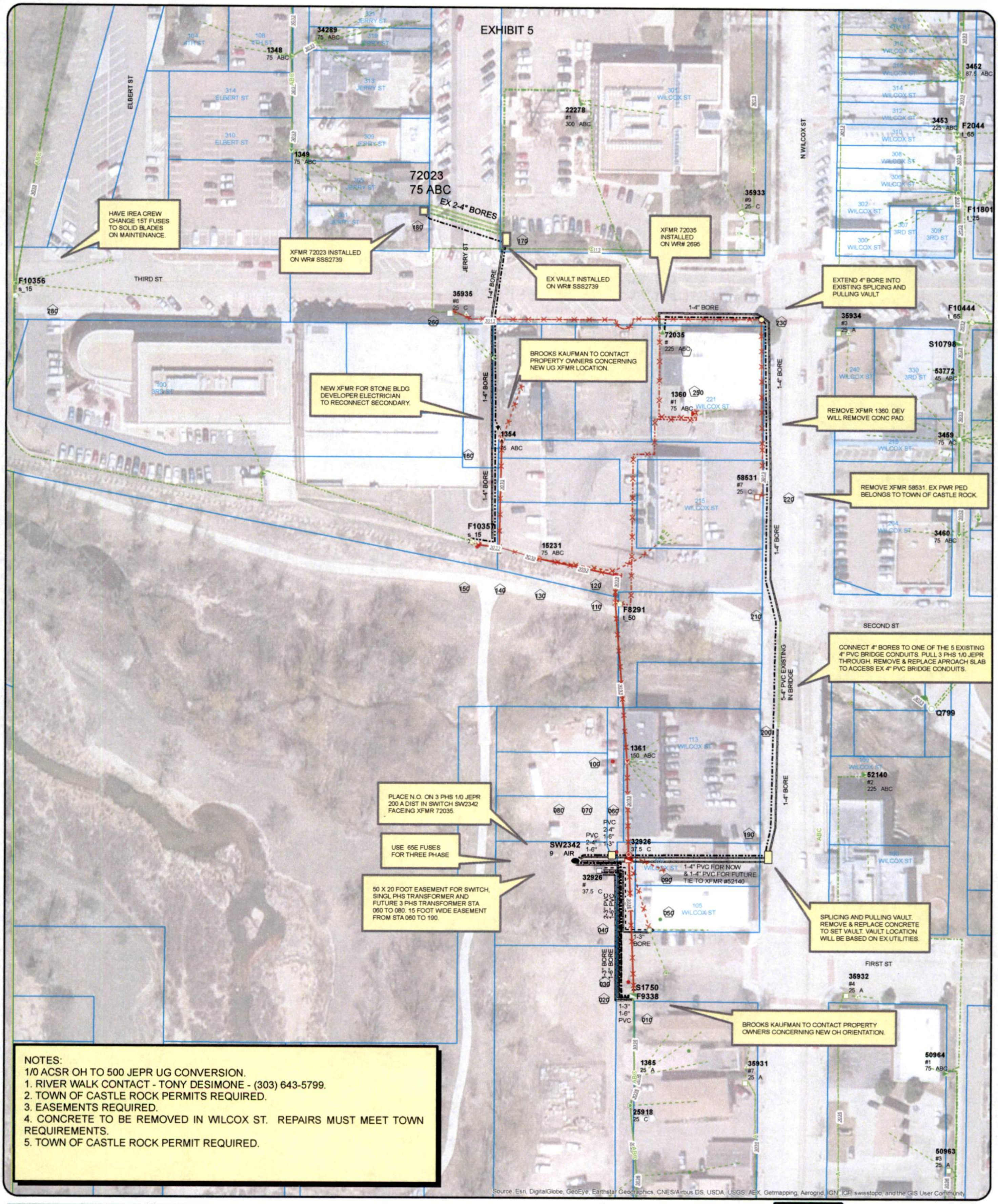
PARCEL D:
LOT 13A, TOWN OF CASTLE ROCK 16TH AMENDMENT, COUNTY OF DOUGLAS, STATE OF COLORADO.

PARCEL E:
LOT 18, BLOCK 23, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO.

PARCEL F:
LOT 15, PART OF LOT 16, LOT 17 AND ADJOINING ALLEY IN BLOCK 23, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
A TRACT OF LAND, SITUATED IN THE NORTHWEST ONE-QUARTER OF SECTION 11, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHEAST CORNER OF LOT 14, BLOCK 23, TOWN OF CASTLE ROCK SUBDIVISION;
THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG THE WEST RIGHT-OF-WAY OF WILCOX STREET, 50.00 FEET TO THE NORTH RIGHT-OF-WAY OF SECOND STREET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID NORTH LINE, 160.00 FEET;
THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 5.42 FEET;
THENCE NORTH 77 DEGREES 31 MINUTES 42 SECONDS WEST, 143.38 FEET;
THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 74.46 FEET;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 160.00 FEET, TO THE NORTHWEST CORNER OF SAID LOT 14;
THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 14, 50.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 14;
THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 14, 140.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT 5
IREA INFRASTRUCTURE TO BE RELOCATED

EXHIBIT 5



NOTES:
1/0 ACSR OH TO 500 JEPR UG CONVERSION.
1. RIVER WALK CONTACT - TONY DESIMONE - (303) 643-5799.
2. TOWN OF CASTLE ROCK PERMITS REQUIRED.
3. EASEMENTS REQUIRED.
4. CONCRETE TO BE REMOVED IN WILCOX ST. REPAIRS MUST MEET TOWN REQUIREMENTS.
5. TOWN OF CASTLE ROCK PERMIT REQUIRED.

SSS3861-1	Designer: James Elmer
Job Name: RIVERWALK APTS RELOCATE OH 3PHS	
Location: WILCOX & FIRST	
Customer: C D WILCOX LLC	
Contact: TONY	
Ph: (303) 643-5799	Mobile:
Fax:	
Email:	

AM 2/3/17

Feet
0 45 90 180

N W E S

INTERMOUNTAIN RURAL ELECTRIC ASSOCIATION
Colorado 16 Jefferson
Sedalia, Colorado

IREA 1/27/2017 jelmer

DISCLAIMER
INTERMOUNTAIN REA MAKES NO REPRESENTATION OR WARRANTY AS TO THE ACCURACY OF THESE BASE MAPS, AND ASSUMES NO RESPONSIBILITY OR LIABILITY TO ANY USER. THIS BASE MAP IS NOT A LEGEL DOCUMENT AND IT IS INTENDED TO SERVE ONLY AS A GRAPHIC REPRESENTATION.

Job Type: OH TO UG-CSI	PERMITS & CONFLICTS		JOINT USE	# of Meters: 0
County: DOUGLAS	Phone: Y	CaTv: Y	Phone:	Amp.:
TwpRng-Sec Qtr: 0867-11	Water: Y	Gas: Y	CaTv:	Voltage: 12470
Feeder: 3033 & 3036 Phase: 3 Ph	Hwy: Y		Other:	Trans. #:

Meter Type: NA

Design Date: 2/3/2017	Released To:	Permit Req.: Y
Released By:	Date:	
Inspector:	Date:	ROW Req.: Y
Contractor:	Date:	
Energized Date:	As-Built:	Tap Fee:

EXHIBIT 6

ORDINANCE NO. 2017-

AN ORDINANCE AMENDING CHAPTER 3.04 OF THE CASTLE ROCK MUNICIPAL CODE CONCERNING THE TOWN'S SALES TAX, BY PROVIDING FOR A SALES TAX CREDIT AGAINST CERTAIN PUBLIC IMPROVEMENT FEES PAID AT THE RIVERWALK PROJECT

WHEREAS, the Town of Castle Rock, Colorado (the "Town") has entered into the Downtown Redevelopment Agreement (Riverwalk) (the "Redevelopment Agreement") with CD Wilcox, LLC ("Owner") and the Castle Rock Downtown Development Authority ("DDA") in association with the development of a mixed-use project known as the Riverwalk (the "Property"); and

WHEREAS, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Redevelopment Agreement; and

WHEREAS, pursuant to Section 4.03 of the Redevelopment Agreement, the Town Council of the Town has agreed to consider adoption of an ordinance granting a Sales Tax Credit in the amount of 2.7% against the collection of Taxable Transactions to the extent that a public improvement fee in the amount of 2.7% (the "Credit PIF") has been collected on Taxable Transactions occurring within the Proprty, subject to the terms and limitations set forth in the Redevelopment Agreement; and

WHEREAS, providing for such Sales Tax Credit against the Credit PIF collected and paid on Taxable Transactions occurring within the Project will substantially aid in the finance and development of the Project, and will protect and promote the public health, safety and general welfare of the residents of the Town.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. **Amendment**. Chapter 3.04 of the Castle Rock Municipal Code, concerning the Town's sales tax, is hereby amended by the addition of a new Section 3.04.153 to read as follows:

3.04.153 Tax Credit Against Payment of Public Improvement Fees in the Riverwalk.

A. Notwithstanding any other provisions of this Chapter to the contrary, and in order to implement the provisions of the Redevelopment Agreement dated _______ and entered into by the Town of Castle Rock, CD

Wilcox, LLC, and the Castle Rock Downtown Development Authority, as it may be amended (the "Redevelopment Agreement"), there is hereby granted to each person or entity obligated to pay, collect or remit the sales tax on the sale or provision of goods or services which are subject to the Town's sales taxes described in this Chapter occurring within the property known as the Riverwalk, and more particularly described in Exhibit "4" of the Redevelopment Agreement (the "Property"), a tax credit against the collection of the sales taxes as hereinafter set forth. All capitalized terms used in this section and not otherwise defined herein shall have the meanings given to them in the Redevelopment Agreement, as amended from time to time. Such tax credit shall be granted in the form of a reduction in the applicable sales tax rate in an amount equal to 2.7%, and shall attach to a particular transaction only to the extent that the Credit PIF Revenue is collected and received by the PIF Collection Agent for such transaction. Notwithstanding the foregoing, in the event that the Credit PIF is imposed at a rate less than 2.7%, the tax credit shall be accordingly reduced to the amount of the Credit PIF so imposed. The tax credit shall be automatic and shall take effect immediately upon the occurrence of a Taxable Transaction, but shall be subject to the applicable retailer's remittance to and receipt by the PIF Collection Agent of the Credit PIF Revenue in accordance with the Credit PIF Covenant and the Redevelopment Agreement (as reflected on the retailer's periodic sales tax report).

B. The sales tax credit granted pursuant this Section shall remain in effect for the period set forth in the Redevelopment Agreement and shall thereafter automatically terminate.

Section 2. **Invalidity**. In the event the sales tax credit established herein or the Credit PIF is determined by a final court decision to be unconstitutional, void or ineffective for any cause, retailers shall immediately be required to collect and remit the full Town sales tax as provided in Chapter 3.04 of the Castle Rock Municipal Code.

Section 3. **Change in Tax Rate**. Nothing contained in this Ordinance shall prohibit the Town, after complying with all requirements of law, from increasing or decreasing the Town's sales tax rate.

Section 4. **Effect of Credit, Applicability of TABOR**. The Town Council hereby determines that the creation or termination of this tax credit does not constitute a tax increase, the imposition of a new tax, or a tax policy change directly causing a net tax revenue gain to the Town, and that nothing herein creates a multiple fiscal year financial obligation or other indebtedness of the Town, nor does the tax credit established by this Ordinance and the termination of such credit meet any of the other criteria requiring approval by the electors pursuant to Article X, Section 20 of the Colorado Constitution, also known as the Taxpayer's Bill of Rights (TABOR).

Section 5. **Repealer**. Any bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be constructed to revise any bylaw, order, resolution or ordinance or part thereof, heretofore repealed.

Section 6. **Effective Date**. The amendment to Chapter 3.04 of the Castle Rock Municipal Code shall become effective on the later of: (i) thirty (30) days following publication of this Ordinance, and (ii) the Effective Date of the Agreement.

Section 7. **Severability.** If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 8. **Safety Clause.** The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this ____ day of _________________, 2017 by a vote of ____ for and ____ against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this _____of _______________, 2017 by the Town Council of the Town of Castle Rock, Colorado, by a vote of ___ for and ___ against.

ATTEST: **TOWN OF CASTLE ROCK**

______________________________ ______________________________

Sally Misare, Town Clerk Jennifer Green, Mayor

Approved as to form:

____

Robert J. Slentz, Town Attorney

EXHIBIT 7
OUTSTANDING BONDS

FirstBank

- $2,500,000 Principal Balance
- Interest paid quarterly
- Principal paid annually ($125,000)
- Maturity date 9/15/2026.

FirstBank

- Line of Credit – varies but not more than $1,000,000 at any time
- Maturity Date – Varies